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Determining the Need for an Army Liaison Staff to Congress
for Strategic Matters

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A Master of Military Art and Science thesis presented to
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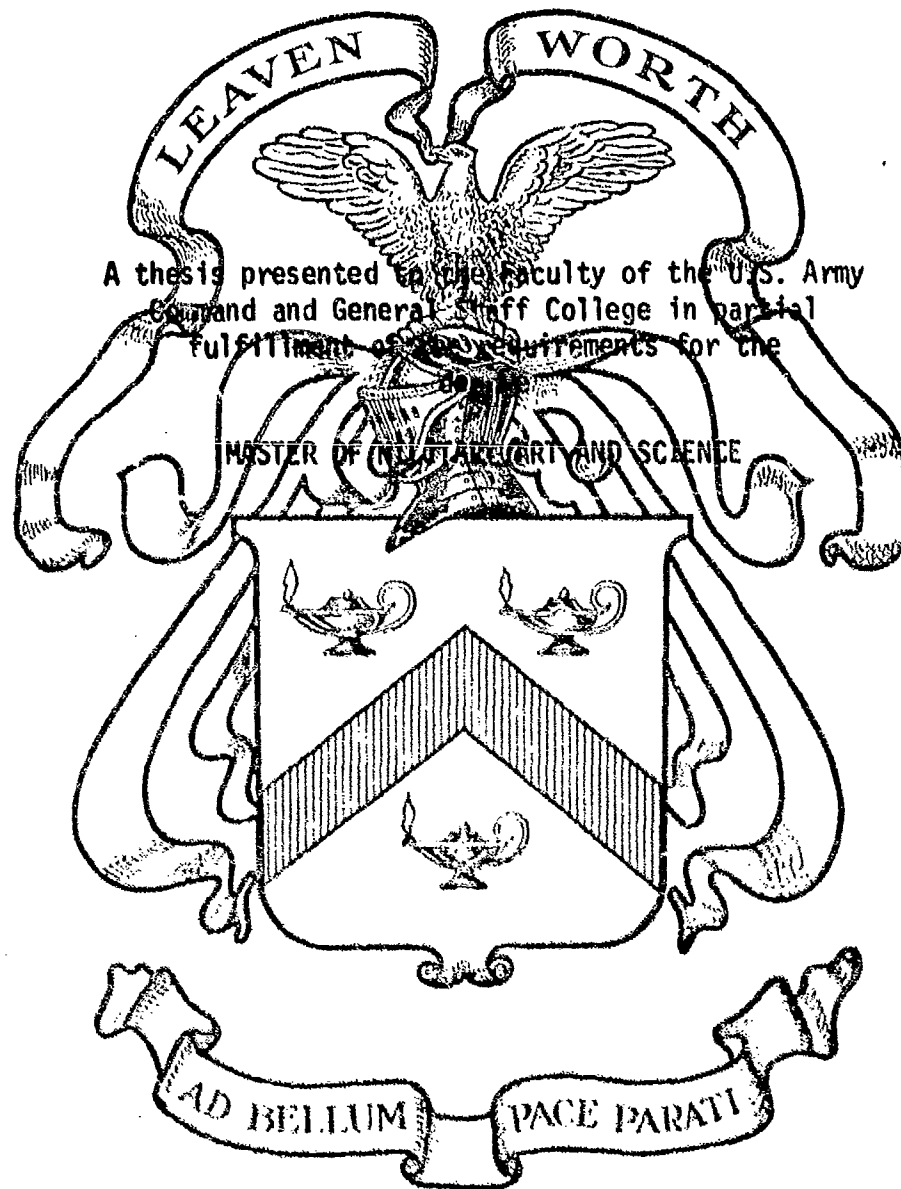
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Although strategy is developed and implemented within the executive branch, Congress controls the structural means for carrying any strategy into effect. The Office of the Chief of Legislative Liaison has been very effective in dealing with structural factors needed to carry out Army decisions on strategic matters. However, there appears to be a need to increase the emphasis upon providing Congress with a clear and consistent rationale for strategic programs as they pertain to the Army.

The conclusion of this study indicates that an Army liaison staff to Congress for strategic matters should be established. This could be accomplished in several ways. This study recommends that initial consideration be given to expanding the current legislative liaison organization to include a division responsible for routinely appraising Congress on matters of strategic significance to the Army.

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DETERMINING THE NEED FOR AN ARMY LIAISON STAFF
TO CONGRESS FOR STRATEGIC MATTERS



A thesis presented to the faculty of the U.S. Army
Command and General Staff College in partial
fulfillment of the requirements for the

MASTER OF MILITARY ART AND SCIENCE

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degree

MASTER OF MILITARY ART AND SCIENCE

by

DENNIS M. PATRICK, CPT, USA
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The opinions and conclusions expressed herein are those of the individual student author and do not necessarily represent the views of either the U.S. Army Command and General Staff College or any other governmental agency. (References to this study should include the foregoing statement.)

ABSTRACT

This paper investigates the need for an Army liaison staff to Congress for strategic matters. The historical and descriptive approaches are used to evaluate pertinent documentary evidence. The Congressional process, as it pertains to military policy, is illustrated with two different models.

In recent years Congress has displayed a strong desire to curb the powers of the President and to reassert Congressional prerogatives. However, in attempting to reassert control, Congress may be ignoring the greater impact of its actions upon military strategy. Without close coordination and cooperation between Congress and the Administration on development of military policy, the strategic effort can be degraded.

It is evident from the history of the Army legislative liaison effort that liaison between the Army and Congress has developed in response to a need for better communication between the two bodies. The determination of many members of Congress to reassert Congressional prerogatives, particularly in the area of the war powers, has underscored the need to once again improve communications. A good professional understanding between the Army and Congress is needed to implement wise legislation.

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TABLE OF CONTENTS

APPROVAL PAGE	ii
ABSTRACT	iii
CHAPTER	
I. INTRODUCTION	1
Problem Statement	3
Definition of Terms	4
Limitations of the Study	5
Assumptions	6
Methodology	7
Value of the Study	8
II. THE CONGRESSIONAL PROCESS	9
Broad View (Dahl's Model)	9
Narrow View (Dillard's Model)	14
Views of the Congressional Role	18
III. EXECUTIVE-LEGISLATIVE RELATIONS AND WAR POWERS ISSUE . .	26
Constitutional Authority	26
Presidential Dominance	29
Thrust Toward Greater Congressional Participation . . .	35
Conclusion	51
IV. ARMY LIAISON WITH CONGRESS	53
Introduction	53
History of Army Legislative Liaison	54
Organization of Office of Chief of Legislative Liaison .	63
Functions of Office of Chief of Legislative Liaison . .	66
Conclusion	70

V. CONGRESS CONSIDERS STRATEGY	73
Introduction	73
Relation of Congress to Strategy Decisions	73
Congressional Functions	80
Information	82
Congressional Consideration of Military Threat	89
Sufficiency of Army Liaison Effort	90
Summary and Conclusion	97
VI. SUMMARY, CONCLUSION, AND RECOMMENDATIONS	100
Summary	100
Conclusion	103
Recommendations	104
BIBLIOGRAPHY	107

CHAPTER I

INTRODUCTION

Within the past decade the United States Congress has made an increasing effort to reclaim powers previously deferred to the executive branch of the federal government. This effort has been directed primarily toward the area of foreign and military policy. Senators and Representatives write and speak more frequently on behalf of the effort. Enactment of legislation asserting the Constitutional right of Congressional participation in foreign and military policy-making bears witness to the earnestness with which Congress is pursuing its goal.

If Congress is to play an effective role in determining military policy, as an extension of foreign policy, it must have sufficient, accurate information. Effective decision-making cannot take place in a vacuum. Congress and the President have clashed repeatedly over the issue of executive privilege versus Congressional right to information. Without adequate information, Congress, as a partner in the formulation of military policy affecting strategy, will run the serious risk of improperly allocating resources while sincerely intending to support a viable strategy. On the other hand, the risk of compromise is always present when sensitive national security information receives wide dissemination.

It is not surprising to note that Congress, like all other segments of our society, has been caught up in the information explosion. Vast quantities of military related information exist; the problem becomes one of how to glean the few important items pertaining to any given issue. Congress has considered the use of computers to store, process, and make available information for recall.¹ Computer oriented decision-making would help solve complex problems by providing the varying costs of alternative policy decisions. Increasing the size of Congressional and committee staffs also has been suggested as a possible way of providing technical information efficiently. Although this has been attempted in recent years, the professional staffs are still considered inadequate to accomplish the work expected of them.

Scholars have devoted considerable attention to civil-military relations since the end of World War II. Much of the published literature about civil-military relations deals with the "evils," imagined or otherwise, of the "military-industrial complex." A smaller quantity of published literature discusses military-Congressional relations. Unpublished studies conducted by students at the U.S. Army War College have dealt specifically with ways in which military-Congressional relations could be improved. Significant attention has been given to preparation of witnesses appearing before Congressional committees and subcommittees. Employment of public relations techniques by witnesses has been

¹"Congress Trying Computers," Kansas City Star, 8 October 1975, p. 8C.

suggested as a means for selling the Army's programs to Congress.²

Improving Army liaison with Congress, specifically on strategic matters, is the subject to be dealt with in this study.

Problem Statement

The purpose of this study is to investigate the need for a Department of the Army liaison staff to the United States Congress for strategic matters. Each year the Secretary of Defense, the Secretary of the Army, and the Army Chief of Staff appear before the Congressional armed services committees and the Congressional appropriations committees. Threat estimates, national objectives, strategic objectives, and resources needed to achieve these objectives are some of the subjects discussed. Beyond these appearances Congress has no central Army source with which to work on a daily basis to gain an understanding of proposed strategy. This is very significant if proposed strategy is to be translated into resource needs. Currently, the Army Office of the Chief of Legislative Liaison coordinates the appearance of witnesses before the Congressional committees and subcommittees.³ This raises the question

²For techniques recommended to witnesses, see MAJ Richard S. Baty, "Congress and Military Research and Development: An Approach to Detente" (Air Command and Staff College, 17 July 1974), pp. 43-57; Department of the Army, Office of the Chief of Staff, Standing Operating Procedure: Responsibilities in Connection with Army Appearances Before Committees of Congress and Other Related Actions (13 January 1975), pp. 25-34; and CDR Jeremy D. Taylor, "The Articulation and Jurisdiction of Military Needs in Congressional Testimony" (Military Research Program paper, U.S. Army War College, 28 May 1975), pp. 26-27 & 70-84.

³For a detailed discussion of the responsibilities of the Office

of whether this procedure is sufficient to keep Congress informed on a routine basis of the estimated national security threat and of Army rationale for countering the threat.

Definition of Terms

Certain key terms used repeatedly throughout this paper are defined at this point to facilitate understanding. Some terms used only briefly in the paper are defined in the text as they arise. Terms of recurring interest are as follows:

Congressional Process: A set of interactions between elements of the Army and Congress for the purpose of enacting legislation pertaining to the Army.

Foreign Policy: "A strategy or planned course of action developed by the decision makers of one state with regard to other states or international entities aimed at achieving specific goals defined in terms of national interest."⁴

Military Policy: A planned course of action developed by the decision-makers of one state involving the implementation of foreign policy by military means. Military policy may be considered an extension of foreign policy.

of the Chief of Legislative Liaison, see Department of the Army, Legislative Liaison, AR 1-20 (6 July 1973), p. 2; and Department of the Army, Office of the Chief of Staff, pp. 2-3.

⁴ Jack C. Plano and Roy Olton, The International Relations Dictionary (New York: Holt, Rinehart, and Winston, Inc., 1969), p. 127.

Military Strategy: "The art and science of employing the armed forces of a nation to secure the objectives of national policy by the application of force or the threat of force."⁵ It is difficult to conceive of a purely Army strategy. The term "military strategy" as used in this paper is understood to emphasize the Army's role and responsibility in United States military strategy.

National Interests: "The fundamental objectives and ultimate determinants that guide the decision makers of a state in making national policy. These include self-preservation, independence, territorial integrity, military security, and economic well being."⁶

Limitations of the Study

First, within the area of civil-military relations, only that segment which involves the two-way flow of information between the professional military establishment and members of Congress for use in legislative action influencing Army policy is considered. It is not within the scope of this paper to discuss detailed procedures for organizing or implementing such a liaison staff should investigation indicate a true need.

Second, the scope of the study is directed toward the activities of the U.S. Army in the Congressional process to support its segment of

⁵Department of the Army, Dictionary of United States Army Terms, AR 310-25 (June 1972), p. 330.

⁶Plano and Olton, p. 128.

proposed strategy. Other Department of Defense agencies such as the Assistant Secretary of Defense for Legislative Affairs or the activities of the other services are examined and considered insofar as their effort contributes to the clearer understanding of the alternatives for the Army's relations with Congress. The focus of attention is the Army's relations with Congress.

Third, published material directly addressing the subject of military liaison staffs to Congress is limited. Several books and articles, however, point toward the subject rather obliquely under such general categories as "civil-military relations" and discussions of the executive-legislative relations involving the war powers, executive agreements, and executive privilege. More valuable than these have been the few unpublished studies which discuss directly the various situations in which the Army deals with members of Congress.

Finally, this investigation and the conclusions apply only to an environment in which the Congress has not declared war. No consideration is given in any way to relations between the Army and Congress after a declaration of war since the relations between the two bodies change significantly when war is declared. Of particular interest in this study are the relations between the Army and Congress on matters involving acquisition of resources to support recommended military strategies against potential national security threats.

Assumptions

This study rests upon the following two assumptions:

- Congress is expected to continue to assert a portion of control in military policy formulation. This effort will be based upon the legislators' interpretation of the Constitution.

- Cooperation between the U.S. Army and Congress on national security matters is highly valued by both government bodies in the interest of effective national security.

Methodology and Organization

The historical and descriptive methods are used to trace, describe, analyze, and evaluate means by which Army information on military strategy is acquired and used by the Congress for the purpose of military resource allocation. Determination is then made of the need for supplementing this process with an Army liaison staff for strategic matters. A review of pertinent documentary evidence will help to establish facts and trends of relations between Congress and the Army. Documentary and information analysis is used to evaluate the effects of Congressional actions on Army strategy. Finally, generalizations are made concerning the need for an Army liaison staff to Congress for strategic matters. A recommendation is provided in the conclusion.

This paper presents the findings of the investigation by proceeding from the general to the specific, from the overview to the detailed considerations. In this way, a sense of perspective is maintained and the presentation does not lose direction. Chapter II presents two models for viewing the Congressional process. Additionally, different views of Congressional roles in foreign policy are discussed.

In Chapter III the subject of executive-legislative relations are discussed along with the nature of the recent Congressional thrust toward greater participation in the determination of military strategy. The current Army legislative liaison effort is discussed in Chapter IV. Chapter V discusses the interface between the Army's strategic proposals and Congressional provisions for implementing or altering these proposals. A summary, conclusion, and recommendations comprise Chapter VI.

Value of the Study

The general subject of liaison between the Army and Congress seldom appears in scholarly or professional military literature. The few articles that have appeared since World War II delicately present a brief and somewhat sterile account of the legislative liaison functions performed by the Department of Defense and service staffs. It is not surprising, then, to find no scholarly or professional military literature openly questioning the need for an Army liaison staff to Congress for strategic matters. Reasons for this might include the lack of a perceived need by either the Army or Congress. However, as perceptions change, needs may also change. Or, perhaps the inclination of some Army members to avoid the political process could be offered in explanation. As controversial as it may be, the first value of this paper is to open the area of Army liaison to Congress as an area for discussion and further investigation. Second, it is hoped that this study will significantly contribute to the body of knowledge in the field of civil-military relations.

CHAPTER II

THE CONGRESSIONAL PROCESS

The purpose of this chapter is to establish an understanding of the Congressional process as it pertains to military policy. Two models are used to illustrate two distinct features. The first model illustrates the inevitable strain placed upon legislators who are attempting to behave both rationally and responsibly. The second model depicts the dynamic interaction between known elements in Congressional-Army relations. As this study progresses these two models can be used to understand observations, impressions, relationships, and functions. Additionally, different views held by students of the Congressional role in foreign policy-making generally and in military policy-making specifically are discussed and compared.

Broad View (Dahl's Model)

American political scientist Robert A. Dahl studied the United States Congressional activities in foreign policy and concluded that Congress is poorly suited to influence foreign and military policy in a crisis-ridden world. He was disturbed that Congress could not assume the burden of responsible leadership and of developing rational understanding in the American public of necessary policies. He was also

concerned that when Congress fails to carry equal weight in American democracy, powerful leadership of the United States can easily become concentrated in the hands of the executive. This becomes accentuated during the prolonged period of tension and crisis in the modern world. Dahl's genuine concern with the survival of American democracy motivated him to search for ways to ease the burdens and difficulties facing Congress. Concurrently, Congress had to provide responsible leadership and gain support from the American electorate.

In the course of his work Dahl developed a model which essentially portrays the predicament faced by Congress. Congress must compete with the competence of the executive branch while at the same time it must represent the desires of the constituency. Dahl states:

The system will tend toward irrationality whenever people at one level attempt to exercise judgments requiring detailed knowledge available only to people at the succeeding level. And it will tend toward irresponsibility whenever people at one level attempt to exercise their discretion by making policy that runs counter to the preferences of the people at the preceding level.¹

A diagram adapted for this paper from Dahl's model is shown in Figure 1. Again, Dahl states: "The range of discretion tends to decrease as the range of detailed knowledge increases."²

Responsibility here, as it pertains to policy selection, can be defined as the state of being answerable or accountable to the

¹Robert A. Dahl, Congress and Foreign Policy (New York: Harcourt, Brace, and Co., 1950), pp. 143-44.

²Ibid., p. 142.

preferences of the greatest number of citizens. Rationality, as it pertains to policy selection, can be defined as possessing the faculty of reasoning by making inferences to arrive at the best design for achieving the purposes agreed upon. The functioning of rationality and responsibility presupposes the existence of agreement by citizens. Dahl does not imply that all concerned will be satisfied with a decision. He only means that the minority has not been ignored by the majority.³ When Dahl speaks of competence he "means the capacity for rational judgment in a given policy situation."⁴

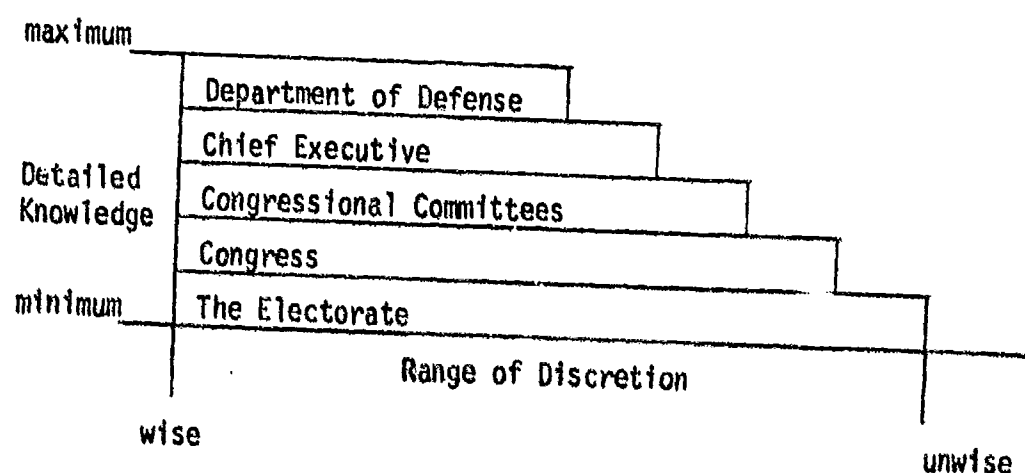


Fig. 1. Discretion Versus Knowledge

If Congress influences military policy reflecting the preferences of the greatest number of citizens, but does so without the same competence as the Department of Defense, it would be acting responsibly but not necessarily rationally. Conversely, if the Congress, acting on the best information available from the Department of Defense and the

³Ibid., pp. 4-5.

⁴Ibid., p. 27.

armed services, reaches a decision supporting budget requests which may not be supported by the public, then Congress would have acted quite rationally, but not responsibly.

Can the average citizen bring to bear adequate rationality on military policy decisions to affect viable solutions? Certainly the citizen can act rationally in the sense that he can bring a problem to the attention of specialists who can apply the necessary means to correct the problem. But the citizen is not expert enough himself to solve the problem properly. This is left to someone with competence, in this case, the executive branch with the skill and mastery of the Department of Defense in military policy-making.⁵ The question must be answered in the negative.

Dahl makes some significant remarks about the utility of Congressional committees. Just as he sees the Congress attempting to span the gap between the competence of the executive branch and the ignorance of the electorate, so he sees the committees and subcommittees attempting to span the same gap between the executive and Congress.⁶ The closest means by which Congress can develop the expertise and specialists it needs is in the form of subcommittee members. It is this Representative or Senator to whom other members of Congress believe they can turn in confidence. He is one of them. It is the subcommittee member, in Dahl's opinion, to whom other members of Congress look to see that no

⁵Ibid., p. 70.

⁶Ibid., p. 150.

harm is done in the law-making process.⁷

From his analysis using his model Dahl suggests four ways by which Congress could raise the level of its competence through better use of experts. First, the committees themselves could become more specialized. Second, committees may employ their own experts in the form of staffs. Third, better relationships with other government agencies could be established. Fourth, Congress could be provided with a policy agency to assist in choosing between alternatives.⁸ For purposes of this study a closer look is given to the second and third suggestions. Suffice it for now to say that there are three significant relationships which Congress and a staff could maintain. Congress could abdicate to a manipulative staff which lobbies to gain position. Congress could receive and use information from a neutral staff. Or, Congress could receive assistance from a staff helping to explore alternatives. Congress would probably fear the former but probably accept the latter two.⁹

Dahl's suggestions underscore the importance of reconciling the gap between responsibility and rationality. They must both operate concurrently to prevent the preferences of the President and the Department of Defense from overriding the preferences of the electorate.¹⁰ The conflict between the Congress and the President can be seen from

⁷Ibid., p. 142.

⁸Ibid., pp. 152-56.

⁹Ibid., pp. 150-51.

¹⁰Ibid., p. 174.

either extreme. On the one hand, the legislative branch seeks to impose responsibility on the executive by tightly controlling the budget proposed by the executive. But who takes the time to read the hundreds of pages of testimony on Department of Defense appropriations in any given year? The committee gives only a few hours consideration to the subcommittee work and recommendations. Most of the work is done by the subcommittee and, within the subcommittee, by the chairman.

On the other hand, the President will resist Congressional control. The Chief Executive realizes full well that, compared to the executive branch, Congress simply does not possess timely, accurate, and complete information necessary for quick decisions on a multitude of national security issues. In a crisis the President will act promptly and without the delay typical of legislative debate. The President could exercise a more efficient rationality in an urgent situation than could Congress. This is in terms of Dahl's definition of rationality presented previously.

This perspective presented by Dahl has dealt with the Congressional process broadly and has included the electorate. This will now be supplemented with a narrower, more mechanistic perspective.

Narrow View (Dillard's Model)

It is sometimes helpful to view Congressional-Arm relations as a subsystem of the larger system of executive-legislative relations. As used here, the term "subsystem" means a portion of a larger orderly process of events. Such a view is offered by Colonel William H. Dillard

and others in a group study prepared at the U.S. Army War College. This view is expressed as a model and depicts the dynamic interaction of elements as a continuous flow in Congressional-Army relations. The term "Congressional process," when used here, is a set of interactions between elements of the U.S. Army and Congress for the purpose of enacting legislation pertaining to the Army.

Dillard has drawn upon Harold J. Leavitt's understanding of organizations. Leavitt identifies four elements characteristic of any system. These include the tasks to be performed, the structure of the system, the tools to be used to accomplish the tasks, and the people in the system.¹¹ The tasks are the things the system builds or designs or produces with the purpose in mind. At one time it was believed that tasks determined the structure of the organization, the kinds of tools it used, and the way people were managed. But with rapidly changing technology, new kinds of people, and a rapidly changing world, the tasks are less fixed and can be influenced by the other three factors.¹²

Structure becomes the broad framework, arrangement of processes, and hierarchy for task accomplishment. The organizational structure forms the skeleton of a hierarchy designed to get things done. It defines power relationships and services as tools to maintain order.

¹¹Harold J. Leavitt, William R. Dill, and Henry B. Eyring, The Organizational World (New York: Harcourt, Brace, Jovanovich, Inc., 1973), p. 4.

¹²*Ibid.*, p. 27.

Authority derived from organizational structure is a formal relation between individuals.¹³

By applying technological advances the organization capitalizes on tools that enable people to perform tasks better. Technology in organizations can take many forms. Besides the technology which designs and constructs "things" there is a new technology for improving organizational management of resources. This, specifically, is the function of systems analysis. This involves the construction and use of models as tools for the purpose of solving complex problems by clarifying the implications of alternative policy decisions.¹⁴

Finally, people are the troublesome but highly flexible factors which comprise the doers of work. Their behavior as individuals and in groups and as participants in large organizations impact on the other three factors of the model. How the functioning members interface with each other determines organization effectiveness.¹⁵

Dillard adapted the model of Leavitt to explain the Congressional process. Although somewhat oversimplifying the process, the model presents an orderly array of observable events and is used in this paper to help visualize the process.

The structure of the subsystem consists of Congress, its committees, and staffs interfacing with the Army Staff. The people in this subsystem will include members of Congress, committee members, committee

¹³Ibid., p. 43.

¹⁴Ibid., p. 97.

¹⁵Ibid., p. 126.

staffers, and Army Staff officers (especially liaison personnel and witnesses appearing before Congressional committees). The tasks are to be accomplished by authorization and appropriation. The actions on these items determine specific programs and the alternatives available for the Army to implement. The tools are the procedures used by Congress to examine Army programs for legitimacy and adequacy. The tools may also include the procedures by which the Army presents its case to Congress.¹⁶

Figure 2 portrays the Congressional process as a dynamic subsystem. Each element impacts on the other elements, which shows the complexity of the system.

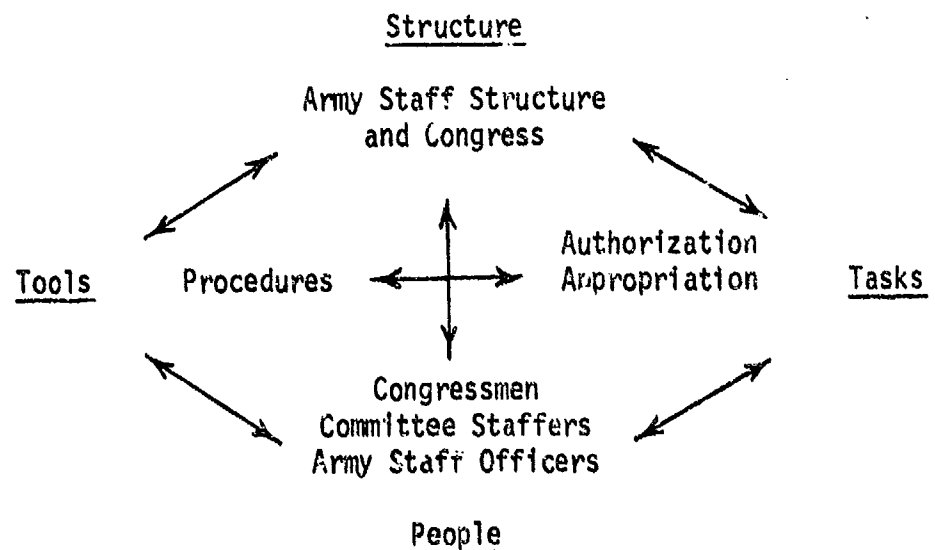


Fig. 2. Congressional Process As a Dynamic Subsystem

¹⁶COL William H. Dillard, COL E. P. Geesey, LTC L. G. Hightower, LTC J. S. Maupin, and LTC J. W. Shannon, "The Role of the Army Manager in the Congressional Process" (Research Program paper, U.S. Army War College, 1975), pp. 7-9.

Views of the Congressional Role

It would be useful to take a brief look at some views of the role Congress plays in the foreign or military policy process as it bears on strategy. Also, the apparent trend of the change in the role of Congress in this respect is sketched before closing this chapter and opening a detailed discussion in Chapter III on executive-legislative relations.

Three different views have been held in recent years by students of Congress and the policy process. One view maintains that Congress can play only a limited and narrow role in the foreign and military policy area. Another maintains that a dominant role for Congress is emerging. A balanced role is seen by some as the only possible role that can result between the executive and legislative branches.

A representative of the first view can also serve as spokesman for the view. J. William Fulbright, even early in his career in Congress, was a proponent of the narrow role for Congress in the field of foreign policy. In an interview for the New York Times Magazine he made this point quite clear.¹⁷ Interestingly, he felt Congress could play a larger role in long term policy-making. Congress simply was not qualified to involve itself in the day-to-day detailed operations. However, for the long term, Congress could become effectively involved--but still only in a narrow role. When contrasted with a Congressional decision to

¹⁷E. W. Kenworthy, "Fulbright Idea of Foreign Policy," New York Times Magazine, 10 May 1959, p. 10.

declare war, military policy and longer range matters such as preparedness result in considerable Congressional involvement. Still, Congressional involvement is overshadowed by the superiority of the executive branch in information, expertise, and the ability to state problems clearly and propose solutions quickly.¹⁸

Fulbright is not alone in his view of the limited role for Congress in the policy process. An unidentified committee member in the House Armed Services Committee, acknowledging his own limited expertise and information on military matters, expressed it this way:

How do we know what should be considered? We mostly reflect what the military people recommend; military policy is made by the Department of Defense. . . . So 95 percent of the legislation is what DOD recommends. . . .¹⁹

When asked to comment, another committee member said: "How the hell do we know what should be considered, anyway? We mostly reflect on what the military man tells us."²⁰

According to this view, much of Congressional involvement in military policy is a response or reaction to Presidential initiative. This includes recommending alternative policies to those proposed by the executive branch. Congress can clearly prescribe one alternative policy from many by amending, approving, or disapproving executive proposals. The main point, however, is that in recent years Congress has seldom

¹⁸Barbara Hinckley, Stability and Change in Congress (New York: Harper and Row, 1971), p. 148.

¹⁹Ibid., p. 149.

²⁰Ibid., p. 149.

initiated legislation in foreign policy much less military or strategic policies.²¹

The second view poses an alternative argument that the executive branch and accompanying bureaucracy has increased far beyond the Chief Executive's scope to manage it. Congressional committees in some instances have assumed the functions of the President. This is in terms of overseeing the executive branch activities and is exercised through Congressional control of the budget, the audit, the investigation, and the legislative veto.²² This argument has not been as widely held as the first view.

An interesting consideration should be presented here. The Professor of Government at Harvard University, Samuel P. Huntington, contends that legislative and executive policy-making does not necessarily correspond with the legislative and executive branches of government. He asserts, as in the first view, that the Chief Executive, not Congress, is the one who decides upon strategic programs. But, in doing so, the process of arriving at the decision strikingly resembles the process used by Congress. Huntington demonstrates that strategic programs are not the product of experts who work in a highly rational manner and finally arrive at a strategic program. Rather, the process includes controversy, negotiation, bargaining, and debate--all within

²¹James A. Robinson, Congress and Foreign Policy-Making (Homewood, Ill.: Dorsey Press, 1962), pp. 14-15.

²²Hinckley, p. 139.

the executive bureaucracy. "The inability of Congress to legislate strategic programs does not eliminate the necessity to proceed through a legislative process. It simply concentrates it in the executive branch."²³ Huntington views the Joint Chiefs of Staff and the National Security Council as committees in the executive branch comparable to the Armed Services Committees of Congress. They are performing the legislative function. "They have what Congress lacks: the political capability to legislate strategy."²⁴

The third view entails the notion of balance. The balance of power expressed as the requirement for the executive and the legislative branches of government to justify themselves and their actions before the other is one of the traditional tenets of the American democratic system. Irresponsible power is unknown in the balanced system. It will always be discovered and brought into line. No agency of the government could act irresponsibly for long in important matters.²⁵

There is considerable exchange by both the legislative and the executive branches during the legislation of a bill. The Chief Executive might not even recognize "his" bill by the time Congress has transformed it into a final product. Even if the executive branch makes an

²³ Samuel P. Huntington, "Strategic Planning and the Political Process," Foreign Affairs 38 (January 1960):298.

²⁴ Ibid., p. 291.

²⁵ Ernest S. Griffith, Congress: Its Contemporary Role, 3d ed. (New York: New York University Press, 1961), pp. 5-6.

interpretation of the final law in such a way that it will gain the executive's intended policy objectives, Congressional oversight will be imposed to insure that Congressional interpretation is honored. For example, witnesses may be called back before committees to explain implementation of certain policies. If dissatisfied, Congress may cut off funds to programs in question.²⁶

Each of these views contains substantial validity. If they did not, they probably would not be held by various scholars. However, the first view, that Congress can play only a limited and narrow role in the foreign and military policy field, seems predominant. Since the beginning of the twentieth century, and certainly since the end of World War II, the role of Congress has steadily moved from Congressional initiation of public policies, including defense policy, toward merely making legitimate or disapproving executive proposals. The initiative for foreign and military policy just does not come from Congress. The epitome is found in the phrase: "The executive proposes and the Congress disposes."²⁷

The Congressional role has become more and more one of approving, disapproving, or modifying the proposals which are the basis for policies established by the executive. Because of its ability to gather, analyze, and process information, the executive is in a much better position to identify problems and propose solutions. The

²⁶Hinckley, p. 139.

²⁷Robinson, pp. 174-75.

tendency for Congress to look toward the executive for leadership can be seen in all fields of government but especially in the field of military policy.²⁸ Who else employs an army, has compiled a reservoir of experience on strategy and tactics, and provides for the extensive training and higher education of a professional officer corps?

Some reasons can be cited for this change in dominance. As the United States became more involved in international affairs of the mid-twentieth century, and was looked upon as a leader by other nations, the job of determining and implementing policy became more complex. This fact helped keep Congress away from the military policy formulation process.²⁹

The problems of the information "explosion," information gathering, and analysis have had a deterrent impact on Congress becoming involved in military policy formation. It is not known completely what Congress used for primary sources of information at the beginning of the twentieth century. But today the executive branch itself is known to be the primary source of information for Congress. In fact, when compared to the executive branch, Congress has few independent information sources. The effects of the information "explosion" have inundated the agencies that are best able, in terms of automatic data processing capabilities, specialists, and analysts, to cope with the deluge. Congress, which is least able to handle the deluge of information, has

²⁸ Robinson, pp. 179-80.

²⁹ Robinson, p. 176.

been placed at a significant disadvantage.³⁰

Another reason Congress has failed to gain a significant role in the military policy formulation process has been its delay in adapting its organization to meet the new demands placed on it. The basis for imaginative problem solving and formulation of policy alternatives requires the integration of specialized information and knowledge in a centralized process. With 535 members, Congress is too decentralized. In fact, the body of Congress has often been criticized for not even reviewing the work and decisions of the committees and subcommittees. Compared to the executive branch, the Congress just does not have the capability to absorb and comprehend the mass of information confronting it.³¹

There is always the danger that technical competence on the part of the executive bureaucracy will dominate the legislative branch so thoroughly that it may be rendered ineffective. Huntington identifies the very point which Dahl fears most: that of the leadership passing completely into the hands of the executive with no balance provided by Congress. The President has come to be expected to bring strategic issues before the public, to arouse the public support for military programs, and to educate the public. Huntington goes further. He claims that in the strategy process within the executive branch the President really does not have to become overly concerned with public

³⁰ Robinson, pp. 178-79.

³¹ Robinson, pp. 176-77.

debate. In fact, it is undesirable.³²

In summary, the conflict between Congress and the President can be expected to continue to exist. The executive wants to get on with policy-making and implementation and becomes impatient with the lack of technical competence of Congress. On the other hand, Congress wants to make the President more responsible for his actions. Confrontation and conflict are inevitable. Congress desires to enforce responsibility on the President without possessing the requisite expertise.

What becomes very important at this point is how Congress perceives its role in relation to the executive. This influences the behavior of Congress. Attention in Chapter III is focused upon executive-legislative relations.

³²Huntington, p. 295.

CHAPTER III

EXECUTIVE-LEGISLATIVE RELATIONS AND WAR POWERS ISSUE

The relations between the executive and legislative branches on the issue of the war powers have always been a source of controversy in the United States. Today this issue is at the heart of the debate over national security. The purpose of this chapter is to examine, in three segments, the nature of the war powers issue. First, the basis of authority of both the President and Congress as established by the Constitution is considered. Next, the current dominance of the President in exercising war power prerogatives is reviewed. Finally, the Congressional reaction to this dominance is examined. The contention of the author is that the nature of executive-legislative relations has a direct impact upon strategic matters pertaining to the Army. An historical perspective of the war powers issue illuminates the implications for national security today and assists in examining the need for an Army strategic liaison staff to Congress.

Constitutional Authority

Conflict between the President and Congress over foreign policy, specifically the war powers, has existed since the birth of the nation. The problem of how to delegate a power as potent and potentially

dangerous as the power to initiate and sustain war was a thorn in the side of those who wrote the Articles of Confederation as well as the authors of the Constitution. An early Constitutional dispute found the authors of The Federalist at odds over the extent of the power exercised by President George Washington when he issued the Proclamation of Neutrality in 1793. Alexander Hamilton supported Washington while James Madison decried his action as a usurpation of Congressional authority.¹

Herein lies the problem. The Constitution does not specify the branch of the federal government responsible for conducting foreign relations. Furthermore, no statute exists clarifying this point. Instead, war powers have been divided between the executive and legislative branches. Military power, that is, the power to wage war, is one of many tools for implementing foreign policy. Since the control of the war powers does not rest entirely with either branch of government, a continuing struggle has ensued. A deciding voice could come from either the executive or the legislative branch depending upon whose interpretation of the Constitution prevails. The Constitutional division of the war powers between the executive and legislative branches is today a source of struggle based upon interpretation. The understanding of the implication for national security today must begin with the Constitution.²

¹Stanley L. Harrison, "Congress in Conflict," Military Review, July 1972, p. 79.

²Stanley L. Harrison, "President and Congress: The War Powers Wrangle," Military Review, July 1974, pp. 41-42.

The war powers granted to Congress are enumerated in the United States Constitution as follows:

The Congress shall have power . . .

11. To declare war, grant letters of marque and reprisal, and to make rules concerning captures on land and water;

12. To raise and support armies, but no appropriation of money to that use shall be for longer than a term of two years;

13. To provide and maintain a Navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

16. To provide for organizing, arming, and disciplining the militia and for governing such part of them as may be employed in the service of the United States; . . .

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers vested by this constitution in the Government of the United States, or in any department or officer thereof.³

The war powers granted to the President are enumerated in the Constitution as follows:

The President shall be Commander in Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States. . . .⁴

An original proposal for the Constitution to read that the legislative branch would "make" war was changed to read "declare" war. This left latitude for the President to respond quickly to repel a sudden attack. This also left a dilemma: how to reconcile the President's authority to

³U.S., Constitution, art. I, sec. 8.

⁴Ibid., art. II, sec. 2.

make war with the authority of Congress to declare war.⁵

With respect to the war powers, the Constitution fosters a certain amount of disunity in United States foreign policy. This disunity is accompanied by the swing of power between the executive and legislative branches. One branch or the other has dominated at different periods of United States history, and each has justified its position by Constitutional authority.⁶

Presidential Dominance

The struggle for dominance between the executive and legislative branches has been vigorous at times and placid at others. Losers have re-emerged slowly. Only by monitoring each other have the executive and legislative branches been able to guard their own prerogatives against encroachment. On the other hand, it is only by compromise and cooperation that these two branches effectively carry out their responsibilities of government. In their wisdom, the writers of the Constitution saw this as the best way for insuring freedom from tyranny of either branch.⁷

The war power held by the President today was not acquired by

⁵Louis Fisher, President and Congress: Power and Policy (New York: Free Press, 1972), p. 181.

⁶Francis O. Wilcox, Congress, the Executive, and Foreign Policy (New York: Harper and Row, 1971), pp. 167-68.

⁷"Power Shifts Between President, Congress...A Basic Feature of U.S. Political System," Congressional Quarterly Weekly Report 33 (28 June 1975):1338.

increments along a straight line of American history. Instead, power has shifted five distinct times between the President and Congress since the writing of the Constitution. The executive branch has held sway three times and the legislative branch has predominated twice in this cyclical process.⁸

Executive dominance was initially experienced under President George Washington's Administration. Congress ascended to dominance during the Administration of President James Madison. Not until Andrew Jackson became President did the executive branch again become dominant. This dominance generally continued through President Abraham Lincoln's tenure in office. During Andrew Johnson's Presidency, Congress, for the first time in American history, overrode a Presidential veto (the Civil Rights Bill of 1866). At this point supremacy returned to Congress. Only at the beginning of the Twentieth Century, during the Administration of Theodore Roosevelt, did the Presidency again capture the initiative from Congress. Some minor oscillations of power took place in the first third of the century. Today, power may be in the process of shifting back again in favor of Congress.⁹

In practice, the executive branch has been the prime recipient of increases of power to initiate and wage war. At least three reasons

⁸Ibid., pp. 1338-39; and see also: Arthur M. Schlesinger, Jr., The Imperial Presidency (Boston: Houghton Mifflin Co., 1973), chaps. 2-7, for an historical perspective of the cyclical nature of the struggle between the President and Congress.

⁹"Power Shifts Between President, Congress....," p. 1338.

for the shift in favor of the President have been offered.¹⁰

• Over a long period of time the President has acquired the responsibility for protecting United States lives and property abroad. The Constitution does not direct the President to protect United States lives and property overseas. Nor has Presidential action in the past been based on legislative authority. Rather, Presidential action has been based on inherent responsibilities of the President. The "life and property" prerogative of the President has expanded over the years. In 1970 the Library of Congress compiled a list of instances involving United States armed forces in conflict overseas. A total of 165 were cited. In only five of the instances was war declared.¹¹

• The times at which a conflict can be said to have started and ended have become tenuous. In the past, Presidents usually have initiated hostilities and expected the approval of Congress to follow. The President at times might be required to initiate a defensive war before receiving legislative sanction. Presidents have then continued to exercise emergency powers granted to them beyond the cessation of hostilities. Furthermore, cessation of hostilities and the termination of a state of national emergency have not always coincided.

• The post-World War II period has seen the increase of Presidential war powers because of the Cold War twilight zone in which there is neither peace nor war. Far-reaching military alliances have been

¹⁰Fisher, pp. 175-77.

¹¹Fisher, p. 177.

formed. Nuclear weapons have largely dominated military strategy. The United States has inherited an increased international responsibility as leader of the free world. As a consequence, the President has been looked to for leadership in crisis after crisis.

The President is the one identifiable leader and spokesman for the nation on foreign policy and national security matters. War powers beyond those specifically granted by the Constitution and now exercised by the President for insuring national security were acquired with the full knowledge and cooperation of Congress.¹² Congress has delegated to the President many of its own powers. This is easily seen during periods of war. Emergency powers granted by Congress to Presidents Woodrow Wilson and Franklin D. Roosevelt were vast. During such emergencies, when national feelings run high, Congress is not at all opposed to giving the President the men, money, and material he needs to win a war. When hostilities have ended, however, the powers delegated to the President have not been so easily won back.¹³

There have been sound reasons supporting the delegation of war powers by Congress to the President. Situations arise where flexibility and timing in the execution of policy is critical. The President has become the sole legitimate channel for communication by the United States with foreign nations. Finally, swift action is needed in

¹²Harrison, "Congress in Conflict," p. 79.

¹³Harrison, "President and Congress," pp. 42-43.

national emergencies. This is probably the most important explanation as to why legislators have acquiesced in the transfer of greater war power authority to the President. A 1969 report issued by the Senate Foreign Relations Committee contended that Congress was not prepared for a role in America's position of leadership as a world power. Congress, therefore, chose to allow the executive branch to take expedients and extra Constitutional measures, if necessary, to fulfill America's leadership role.¹⁴ Legislators may have been overly impressed with executive expertise.

Initially, the President's power to make war came from a variety of sources and precedents, including his authority as Commander in Chief, his commitment to uphold the Constitution, and his responsibility to protect the nation from aggression.¹⁵ In recent years the interpretation of inherent and implied powers has been broadened by treaty arrangements and the acquisition of authority under emergency powers, as previously noted. An attack upon United States planes or ships in foreign waters has been considered an attack upon the United States. Arms agreements require advisors and technicians to instruct recipients how to use and maintain new material. The advisors may need the protection of regular troops. Critics in both houses of Congress see these

¹⁴U.S., Congress, Senate, Committee on Foreign Relations, National Commitments, S. Rept. 129, 91st Cong., 1st sess., 16 April 1969, pp. 15-16.

¹⁵Fisher, p. 193.

stepping stones as an expansion of Presidential power to take the United States into war.¹⁶

Provisions of the United Nations Charter were used by President Harry S. Truman to justify sending United States armed forces into Korea. Multilateral defense treaties such as the North Atlantic Treaty Organization, Southeast Asia Treaty Organization, and the Australia, New Zealand, United States defense pact have also been legal instruments for expanding and deepening United States commitments. Article XI of the Constitution states that treaties made under the authority of the United States become part of the supreme law of the land on the same basis as the Constitution itself. Ultimately, Presidential war power was also expanded.¹⁷

As a practical matter, the President of the United States has the authority to make war, although this authority has been limited by legislation in recent years. The authors of the Constitution were not foolish enough to place the command of troops in the hands of Congress. This task was given to the Commander in Chief, the President. Whether or not the authors of the Constitution intended for the President to monopolize the war powers is a debatable point. The fact is, the dominance of the President has evolved in practice.¹⁸ If Congress is to become a more active participant in foreign and military policy, the

¹⁶Fisher, p. 194.

¹⁷Fisher, p. 196.

¹⁸MAJ Jeffrey L. Scribner, "The President Versus Congress on War-making Authority," Military Review, April 1972, p. 96.

demand must come from Congress itself. This apparently is now taking place. The effect on military strategy remains to be seen.

Thrust Toward Greater Congressional Participation

A reassessment of Congressional participation in foreign policy determination and involvement in the exercise of war powers is taking place. Failure to treat Congress as an equal has produced a negative attitude in many Senators and Representatives toward the executive branch. Legislators have reacted by spending more time dealing with foreign policy and defense matters. In 1925, 1 of every 25 bills Congress considered was concerned with some facet of foreign policy. Today at least one of every five bills pertains to foreign policy in some way.¹⁹ Representative William L. Dickinson offered some interesting statistics demonstrating increased time devoted by Congress to defense matters. He compared the years 1963 and 1973. Time spent by Department of Defense officials in briefings and hearings before Congressional committees in 1963 totaled 836 hours. In 1973 the total was 2,284 hours. Only 19 pages in the Congressional Record were needed in 1963 to print the Senate debate on the Defense Authorization Bill. In 1973 a total of 303 pages were needed.²⁰

Members of Congress see voting behavior as a reflection of

¹⁹ Holbert N. Carroll, The House of Representatives and Foreign Affairs ([Pittsburgh:] University of Pittsburgh Press, 1958), p. 20.

²⁰ William A. Dickinson, "Congress and National Security," Air University Review, March-April 1975, p. 14.

Congressional rebellion against the exercise of extended executive prerogatives. Senator Joseph Clark saw cuts in foreign aid as a way of Congress "getting back at the President for the conduct of the war in Vietnam."²¹ In an address given in June 1969, President Nixon attacked critics of defense spending. Soon after the address the new head of the Agency for International Development, Dr. John A. Hannah, appeared before the House Foreign Affairs Committee. Commenting on the rough questioning Dr. Hannah had been receiving at the hands of the committee members, Representative Benjamin S. Rosenthal asked him, "Do you get the sense of rebellion here--is it possible that the campus rebellion has spread to Congress?"²² During the same hearing Representative Wayne L. Hayes threatened a \$900 million cut in the foreign aid bill.

Possibly one of the more important factors underlying the reassertion of prerogatives by Congress in the area of war powers is the challenging of certain distinctive qualities ascribed to the executive branch. Critics of executive power see some executive qualities as artificial distinctions. The quality of "unity" within the executive branch is not seen to exist. Instead, sprawling diversity is seen throughout the vast executive bureaucracy. Another quality singled out by critics has been the image of the President as servant of the

²¹U.S., Congress, Senate, Committee on Foreign Relations, U.S. Commitments to Foreign Powers, Hearings, 90th Cong., 1st sess., 1967, p. 105.

²²Felix Belair, Jr., "Remark by Nixon Imperils Aid Bill," New York Times, 12 June 1969, p. 1.

"national interest." Instead of serving a "national interest" the executive branch is seen to contain several departments and agencies with their own several interests. All are driving toward their own narrow objectives. Another quality, "expertise," has become a subject of skepticism among some Congressmen. Too often the expertise of an administrative official has been used as a tool for deception. At least this is how some Congressmen have come to view the situation. The deception, in turn, is seen as a means for covering up incompetence.²³

Representative Jonathan B. Bingham cites, as an example of the growing Congressional skepticism of executive "expertise," the following observation. In Representative Bingham's opinion, certain figures had been altered by Navy officials to present an exaggerated Soviet naval threat. United States and Soviet submarine strengths were being compared by a Navy representative. A percentage of the United States fleet was discounted at any given time to allow for vessels docked in home port. When asked what percentage of Soviet vessels had been discounted for the same reason, the official stated that no deduction had been made because "we don't know what their lay-up percentage is."²⁴

Congressional skepticism of executive expertise also stems from questionable procurement practices and cost overruns. On 8 August 1969 the Senate debated the Eagleton-Hatfield Amendment to the Defense

²³Fisher, p. 210.

²⁴Jonathan B. Bingham, "Controlling Military Spending," Foreign Affairs 48 (October 1969):60.

Appropriations Bill for 1970. This amendment sought to delay further development of the Army's Main Battle Tank until the Comptroller General had provided Congress with a cost-effectiveness study. The development costs had risen from \$80 million to \$303 million.²⁵

Since the end of World War II reassertive legislation in Congress has come in surges roughly coinciding with United States involvement in armed conflict overseas. One such surge can be identified in the early 1950s when Congress tried several times to limit the power of the President to send troops overseas. Representative Fredric R. Coudert, Jr., on 3 January 1951, introduced House Joint Resolution 9 ". . . requiring Congressional authorization for sending military forces abroad. . . ."²⁶ Senator Kenneth Wherry introduced Senate Resolution 8 on 8 January 1951 ". . . declaring it to be the sense of the Senate that no United States ground troops shall be sent to western Europe pending determination by the Congress of a policy on that matter."²⁷ A "sense-of-the-Senate" resolution is one which lacks the power to be legally

²⁵"Congress Authorizes Controversial ABM [Antiballistic Missile] Funds," Congressional Quarterly Almanac [91st Cong., 1st sess., 1969] 25 (1970):274.

²⁶U.S., Congress, House, Representative Fredric R. Coudert, Jr., introduced a joint resolution requiring Congressional authorization to send United States troops abroad, H.J.R. 9, 82d Cong., 1st sess., 3 January 1951, Congressional Record 97:34.

²⁷U.S., Congress, Senate, Senator Kenneth Wherry introduced a resolution restraining the President's authority to assign ground troops to Europe, S.R. 8, 82d Cong., 1st sess., 8 January 1951, Congressional Record 97:94.

binding but does imply application of moral restraint. Although neither measure was adopted, Congress did pass Senate Resolution 99 on 4 April 1951 permitting the President to station troops in Europe to serve as part of the North Atlantic Treaty Organization forces.²⁸ However, it was again the sense of the Senate that Congressional approval be obtained before sending additional forces to Europe.

Attempts were also made in 1953 and 1954 by Senators John W. Bricker and Walter F. George, respectively, to amend the Constitution limiting the President's authority to enter into executive agreements.²⁹ Both attempts failed but showed growing support in Congress to restrain Presidential war powers.

How can this surge of legislation to limit the power of the President as Commander in Chief be interpreted? It is easy to criticize Congress as being short-sighted to have ever considered limiting the Presidential prerogatives in the first place. But, then, the 83d Congress had just observed the President's commitment of troops to combat in Korea in 1950 without prior consultation with Congress. Regardless

²⁸U.S., Congress, Senate, Senate adopts a resolution authorizing troops for NATO but restraining the President from additional commitments, S.R. 99, 82d Cong., 1st sess., 4 April 1951, Congressional Record 97:3282.

²⁹U.S., Congress, Senate, Senator John W. Bricker introduced a joint resolution limiting executive agreements, S.J.R. 1, 83d Cong., 1st sess., 7 January 1953, Congressional Record 99:156; and U.S., Congress, Senate, Senator Walter F. George's amendment to the U.S. Constitution relating to treaties and executive agreements, 83d Cong., 2d sess., 26 February 1954, Congressional Record 100:2349-58.

of the strategic rationale of the President's actions, a growing number of legislators in Congress were determined not to be ignored on the issue of war.

Another more intense surge of reassertive legislation by Congress took place during the late 1960s and early 1970s coinciding with the peak of United States involvement in Vietnam. In 1967 Senator J. William Fulbright introduced a National Commitments Resolution. It was not voted on in either 1967 or 1968. In February 1969 he reintroduced the resolution as a sense-of-the-Senate resolution. Speaking before the Senate, Senator Fulbright said:

The resolution is concerned . . . with the commitment of American Armed Forces to hostilities abroad. In this respect it deals with the War Power, which . . . is the one vested most explicitly in Congress by the Constitution. It is also concerned . . . with . . . treaties, laws, executive agreements. . . . Lacking the force of law, this resolution would express a judgment on the part of the Senate that . . . all significant foreign commitments . . . ought to be made . . . with . . . explicit authorization on the part of Congress. What the resolution would do . . . would be to inhibit the President from making politically significant foreign commitments solely on his Executive authority. . . . In recent years . . . these (war) powers have passed largely into the hands of the Executive. All that is required to restore a proper balance is for Congress to reassert its own Constitutional authority in foreign relations, first and foremost by asserting our intent to exercise it. That is the purpose . . . of the present resolution.³⁰

The Senate adopted the resolution and underscored the determination of the Senate to reassert its prerogatives.

By late 1969 a sizable base of support had evolved favoring

³⁰U.S., Congress, Senate, Senator J. William Fulbright reintroduced his National Commitments resolution, S.R. 85, 91st Cong., 1st sess., 4 February 1969, Congressional Record 115:2603-2604.

closer examination of foreign and military policy. This support cut across party lines to include Democrats and Republicans, liberals and conservatives. Broad Presidential discretion in foreign and military policy had been discredited by the United States involvement in Vietnam.³¹

On 18 December 1969 Congress approved the Fiscal Year 1970 Defense Appropriations Bill containing an amendment introduced by Senator John S. Cooper.³² The Cooper Amendment prohibited the use of ground combat troops in Thailand and Laos. The intent was to prohibit a widening of the Vietnam War. However, it was in neither Thailand nor Laos where the President took military action, but in Cambodia.

The Cambodian incursion added fuel to the debate over the Presidential authority to commit troops to combat or expand a current conflict without Congressional approval. Senators John S. Cooper and Frank Church introduced an amendment to the Supplemental Foreign Aid Bill for 1970 restricting the use, by the President, of United States combat troops in Cambodia.³³ The Cooper-Church Amendment would have barred funds for maintaining ground forces and advisors in Cambodia. Former Senator Sam Ervin, Jr., recognized by his peers as one of the Senate's

³¹Fisher, p. 205.

³²"Biggest Cut Made in Defense Funds Since Fiscal 1954," Congressional Quarterly Almanac [91st Cong., 1st sess., 1969], 25 (1970):454.

³³"Cambodia Restriction Included in Foreign Aid Bill," Congressional Quarterly Almanac [91st Cong., 2d sess., 1970], 26 (1971):998-99.

best-informed authorities on the United States Constitution, argued that such a cut-off of funds was unconstitutional because it attempted to have Congress usurp, or otherwise remove from the President, some of the power granted to him by the Constitution.³⁴ The power in question was the power to direct the activities and movements of the military forces. This again supports the contention that the President, despite the chagrin of Congress, has the power to make war.

In addition to the Cooper-Church Amendment, the United States incursion into Cambodia on 30 April 1970 generated several bills. One of these bills was the War Powers Resolution of November 1970 (House Joint Resolution 1355).³⁵ This resolution did not try to define all contingencies in which the President could act without authorization by Congress. It did reaffirm the right of Congress to declare war and that the President should consult with Congress "when feasible" before committing United States armed forces to combat. A major feature of this resolution was the introduction of a new procedure to be followed by the President when committing armed forces abroad. The President was required to report to Congress the reasons for his actions. This report would provide the basis for hearings, debates, and legislative actions. Representative Clement J. Zablocki, floor manager of the resolution, saw

³⁴"Arms Sales Bill Clears After Six-Month Deadlock," Congressional Quarterly Almanac [91st Cong., 2d sess., 1970], 26 (1971):936.

³⁵"War Powers Resolution," Congressional Quarterly Almanac [91st Cong., 2d sess., 1970], 26 (1971):968-71.

this move as a reassertion by Congress of its war power prerogatives. He saw nothing out of the ordinary in requiring the President to report his actions to Congress since ". . . fully 100 reporting requirements have been imposed in the past on the executive branch by Congress as part of foreign affairs and national security affairs legislation."³⁶

According to Representative James G. Fulton the

resolution broadens the base of judgment so that the sole power of commitment of United States military power abroad does not rest on one man, the President. But it is a shared obligation and action of the President and the U.S. Congress, as representative of the American people.³⁷

When the measure reached the Senate, that body failed to act upon it.

On 2 August 1971 the House passed a second War Powers Resolution (House Joint Resolution 1) similar in content to the previous resolution. Again the Senate took no action. Nevertheless, attitudes in Congress had not diminished. Senate Minority Leader Hugh Scott, declaring his support of the resolution, said, "The time has come when Congress will not be denied the right to participate . . . in the whole enormous business of how wars are begun."³⁸

The trend in Congress since the late 1960s had been to codify the specific guidelines by which the President should carry out foreign and military policies. What was once a grey area, in which the "good faith" between Congress and the President was exercised, had become an

³⁶Ibid., p. 971.

³⁷Ibid., p. 971.

³⁸"War-Making Powers: Moves To Restrict the President," Congressional Quarterly Almanac [92d Cong., 1st sess., 1971], 27 (1972):383.

area defined by law. Congress gained a major victory in November 1973 when it passed the War Powers Resolution of 1973 (House Joint Resolution 542) in a veto override.³⁹ This vote had cut across party lines. A Democrat rather than Republican President would have made little difference in the vote.

Until enactment of the War Powers Resolution of 1973, the following four conclusions could be made about the President's war-making powers:

- The President could make war.
- The President and Congress together could make war.
- Congress alone could not make war.
- Congress could not prevent a strong President from making war.

The term "make war" here means physically carrying out acts of hostility.⁴⁰

The War Powers Resolution of 1973 formalized Presidential accountability to Congress. Previously, accountability had been informal. The President usually initiated discussions with selected members of Congress. This procedure was especially used during the mid-1940s when President Truman took the initiative to develop closer executive-legislative relations. During this period the framework for future United States involvement abroad was being laid. This procedure had

³⁹"Overview: Democrats Worry About 'Minority Rule,'" Congressional Quarterly Weekly Report 33 (28 June 1975):1342.

⁴⁰Scribner, p. 95.

been effective for Presidents to gain support of Congress without extensive debate. However, the War Powers Resolution of 1973 grew out of the questioning by many members of Congress of the validity of the leadership in both Congress and the executive branch. Did the legislators have the right to expect leaders always to be wise and behave responsibly, always adhering to Constitutional principles?⁴¹

Major provisions of the War Powers Resolution of 1973 include the following five:⁴²

- The President can commit United States armed forces to hostilities only by authority of a declaration of war, statutory authorization, or a direct attack upon the United States, its possessions, territories, or armed forces.
- The President is required to consult with Congress whenever possible prior to hostilities, and to consult regularly thereafter.
- The President is required to report to the Speaker of the House and to the President Pro Tempore of the Senate in writing within 48 hours whenever United States armed forces are committed to hostilities.
- Troop commitments must be terminated within 60 days unless Congress declares war or specifically authorizes continued hostilities. Congress could extend the 60-day period up to 30 additional days if the

⁴¹Harrison, "President and Congress," pp. 48-49.

⁴²War Powers Resolution, U.S. Code, 1970 ed., supp. iii, secs. 1541-48 (1974).

President certified that this time was necessary to bring about a disengagement.

• Congress is permitted to direct the President, by concurrent resolution, to terminate hostilities where war has not been declared and statutory authority does not exist. A concurrent resolution does not require a Presidential signature.

The War Powers Resolution of 1973 was the first legislation of the 93d Congress to overcome a Presidential veto. In this instance, the voting appeared to be less politically oriented and more issue oriented. The measure was passed in a veto override with the House vote being key (284-135 with a 4-vote margin) and the assuring Senate vote being 75-18 with a 13-vote margin.⁴³ Clear-cut conflict was between the President and Congress over Constitutional interpretation of respective powers.

In reviewing this legislation, President Richard M. Nixon objected to the 60-day limit on troop commitments and the authority of Congress to terminate a commitment. He claimed that this act would, in effect, change the Constitutional authority of the President. This, President Nixon maintained, could be done only by Constitutional amendment, not by a simple legislative act. Senators Sam J. Ervin, Jr., and Barry Goldwater were among a handful of opponents to the resolution who supported the President on this issue.⁴⁴ On Constitutional grounds the

⁴³"Enactment of War Powers Law Over Nixon's Veto," Congressional Quarterly Almanac [93d Cong., 1st sess., 1973], 29 (1974):905.

⁴⁴Ibid., pp. 907 & 913-14.

War Powers Resolution of 1973 remains to be tested in court. On this matter President Nixon may have been quite right. Although the courts have tried to avoid becoming involved in the war powers dispute, they may nevertheless be required to rule on the issue.

A critic of the War Powers Resolution of 1973 had previously been an ardent supporter of the same measure. Senator Thomas F. Eagleton explained his position in his book War and Presidential Power. He saw the well-intended bill as a surrender of Congressional prerogatives to the President. Congress, Senator Eagleton claimed, had authorized the President to commit, under law, United States armed forces at any time anywhere for up to 90 days with no affirmative action by Congress required.⁴⁵

The first use of the War Powers Resolution of 1973 was made by President Gerald R. Ford in April and May 1975 in evacuating Americans from Cambodia and South Vietnam and again during the Mayaguez incident. He was criticized for not consulting with Congress prior to committing United States armed forces in each case. The President maintained, however, that the provisions of the resolution were fulfilled when he notified members of Congress of his intentions. Some members of Congress did not accept the notification to suffice as "consultation." In fact, this effort by President Ford may have been designed to head off a confrontation with Congress. The President's office has never admitted

⁴⁵Thomas F. Eagleton, War and Presidential Power: A Chronicle of Congressional Surrender (New York: Liveright, 1974), pp. 206-225.

that the resolution even applied in these cases since the President "was acting under his Constitutional authority to protect American lives."⁴⁶ Certainly, precedence would deem him correct.

The 92d Congress, 1971-72, might be considered a turning point in executive-legislative relations. Congress demonstrated its resolve to insure a greater participation in future security policy. During the early 1970s President Nixon did sustain certain executive prerogatives against Congressional challenge. For example, the McGovern-Hatfield Amendment designed to force the withdrawal of United States armed forces from South Vietnam was defeated once in 1970 and again in 1971. However, the amendments were defeated by only narrow margins, which indicated serious Congressional strength.

An area in which the President was not able to sustain his old prerogatives involved executive agreements. Presidential prerogatives involving executive agreements are closely related to prerogatives involving war powers. Considerable displeasure had been felt by Senators and Representatives over the use of executive agreements by the President. This technique is especially criticized by Senators who view executive agreements as a potential by-pass to their own legislative involvement in treaty-making.⁴⁷

Senator Clifford P. Case sponsored the International Agreements-Transmission to Congress Bill which was enacted into law on 22 August

⁴⁶"Overview," p. 1340.

⁴⁷Harrison, "Congress in Conflict," p. 79.

1972. It required reports to be made by the executive branch to Congress of all international agreements, other than treaties, entered into by the United States with foreign countries. This included all executive agreements. Reports had to be submitted within 60 days of the effective date. In testimony before the House Foreign Affairs Subcommittee on National Security Policy and Scientific Development, McGeorge Bundy stated:

The most serious present difficulty in the framing and execution of the foreign policy of the United States is the almost complete breakdown of effective relations between the executive and legislative branches of government.⁴⁸

Once again the intent of Congress was to curb the power of the President to commit the United States to support of potential conflicts abroad without involving Congress.

Another confrontation between the President and Congress appears to be forming in 1976 over the issue of executive agreements. In question now is whether executive agreements should be subject to legislative veto much the same way treaties are now subject to Senate action. This would be a more rigid restriction than the reporting requirement imposed by the International Agreements--Transmission to Congress law. Many members of Congress remain concerned that the executive branch has abused the privilege of executive agreements, using it to sidestep

⁴⁸ International Agreements--Transmission to Congress, in United States Code: Congressional and Administrative News, 92d Cong., 2d sess., 1972 (St. Paul, Minn: West Publishing Co., 1972), pp. 711 & 3067-68.

Congressional participation. Since 1946 Chief Executives have entered into 6,317 international agreements, including executive agreements. Only 411 treaties have been ratified by the Senate. Although many of the executive agreements are not controversial, agreements dealing with military commitments make many legislators uneasy. A frequently cited example as questionable is the then-secret agreement between President Nixon with South Vietnamese President Nguyen Van Thieu promising United States aid should Communist forces violate the 1973 peace accords.⁴⁹

Still another area of Presidential prerogatives under scrutiny by Congress is the issue of powers granted to the President during national emergencies. A bill before the 94th Congress (House Resolution 3884) dealing with the national emergency powers of the President was passed by the House on 4 September 1975. One of the important provisions stipulates that in the future national emergencies requiring the granting of special powers to the President would be terminated by Congress through a concurrent resolution if the President did not terminate the national emergency in reasonable time by proclamation.⁵⁰ Again, a concurrent resolution would not require the signature of the President to be made effective.

The recent challenge to executive prerogatives by legislators can be seen as stemming from three factors. First, dissident

⁴⁹"Members Seek Veto Over Executive Agreements," Congressional Quarterly Weekly Report 33 (2 August 1975):1712-14.

⁵⁰"National Emergencies," Congressional Quarterly Weekly Report 33 (31 May 1975):1135; and 33 (13 September 1975):1958.

legislators claim the executive branch does not see Congress as a coequal in government but rather as an adversary. Second, within Congress itself there is much debate as to whether or not Congress is in need of additional power in national security matters. Most often, members of the Senate have been the leading advocates of greater Congressional reassertion. Third, many legislators, both Republicans and Democrats, see danger in Presidential abuse in the administration of his powers.⁵¹

Conclusion

It is clear that Congress has moved from the point of debate to the point of legislative action designed to curb Presidential power and reassert Congressional power. Congress wants to be listened to and not just heard. Legislators seeking reform have meant well. But their effort may have been more reactive than progressive. In its attempt to reassert control over the war powers, Congress may have ignored the greater impact of its actions on military strategy. Any aspirations by Congress to exercise greater control of war powers must be accounted for in strategic planning. Congress controls the resources needed to support a given strategy. Without close coordination and cooperation between Congress and the Administration, the unity of the strategic effort can be degraded. Ill-considered actions by an assertive Congress could be more detrimental than helpful in the long run.

Possibly one of the most common views of American Democracy is

⁵¹Harrison, "Congress in Conflict," pp. 75, 77, & 79.

that a balance between the executive and legislative branches in the exercise of the war powers is required. Those who hold this view believe that each branch must have a degree of trust and confidence in the other branch if both are to participate at all. Paralysis can be induced into government if a spirit of cooperation and teamwork are forsaken. Controversy is healthy in a democracy, to a degree. Friction between branches of government is to be expected, within limits. Tension, up to a point, is a part of the normal political environment. Excessive conflict and dissension between the executive and legislative branches could, however, hamper strategic planning. Such excesses have continued to build over the issue of war powers. However, both branches need not remain at serious odds. A common ground can be found and misunderstandings corrected. A closer liaison between the executive branch and Congress, specifically between the Army and Congress, is one consideration to be examined.

CHAPTER IV

ARMY LIAISON WITH CONGRESS

Introduction

The Army has never been a free agent with authority to govern and regulate itself. Civilian control has always been exercised. The development of an efficient Army has been slow to come about. The United States has suffered more than once from inefficiencies uncovered during crises. Infrequently, the problem has been recognized as a lack of liaison between the Army and Congress. For the first 150 years of United States history any liaison between these two bodies was on an uncoordinated, person-to-person basis. Teamwork, at best, was accidental.

Liaison between the Army and Congress, as exists today, has evolved because of a common need shared by both. Authority for legislative liaison between the Army and Congress is derived from the United States Constitution. The President shall ". . . give to Congress information on the State of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient."¹

Congress has not always enjoyed competent, professional,

¹U.S., Constitution, art. II, sec. 3.

34
military advice. Nor have legislators always acted wisely when competent advice has been provided. Legislative liaison has not always existed. As a consequence of this lack of liaison, the historical failure of the United States to be prepared for military threats to national security can be placed with the Army, for not having proposed measures, and with Congress, for not having provided the wherewithal. Former Secretary of War Elihu Root, appointed by President William McKinley, emphasized repeatedly that the United States approached crises without adequate military policy or adequate security.² The first wise legislative steps, it seems, are hard to take without the intelligent counsel of the professional military man.

In considering the need for an Army liaison staff to Congress for strategic matters, it is useful and appropriate to review the genesis of the existing liaison effort--its history, its organization, and its function.

History of Army Legislative Liaison

One of the first attempts at producing a military policy for the United States was made by President George Washington. He had anticipated the future need for a policy of military service and had supported the proposal of his Secretary of War, Henry Knox, for a program of military preparedness. However, the proposal, the Militia Act of 1792,

²LTC Robert E. Jackson, Jr., "The Army and Congress," A history of Army-Congressional relations prepared for the Office of the Chief of Legislative Liaison, Washington, D. C. (n.p., n.d.), pp. viii & x.

had been so watered down by the time of its passage that it had lost the intended effect.³ More than a century would pass before the Army and Congress evolved an adequate military policy.

In the first century of United States history there is scant evidence of an adequate military policy having been established by the Army or promoted by Congress. There is little evidence that either the Army or Congress appreciated the need for teamwork so necessary if the balance of authority implied by the Constitution was to be achieved.

Secretary Root brought to the federal government substantive changes, including a far-sighted legislative program. The foundation for a General Staff Corps on 15 August 1903 was a solid monument to his tenure in office. But more important here is the fact that he constituted himself as a one-man liaison with Congress. With Presidential backing, Secretary Root drew together individual interests of Congressional leadership in a bold effort to have legislated revolutionary new laws. The laws, for which he successfully lobbied, drew the Army out of its 19th Century constabulary doldrums.⁴ With a stronger sense of teamwork than ever before, the United States approached the eventual crisis of World War I with more than token military and legislative planning.

On 22 May 1911 Henry L. Stimson became Secretary of War under

³Russell F. Weigley, History of the United States Army (New York: Macmillan Co., 1967), pp. 93-94.

⁴Jackson, p. 439.

President William H. Taft. He saw the necessity for a War Department agency responsible for correlating the legislative needs of the Army and for preparing legislative proposals and reports. He required all legislative proposals to be forwarded to the Army Chief of Staff for consideration by the Secretary of War. This was the first instance of a legislative program being built up along the lines of what eventually would become the Office of the Chief of Legislative Liaison.⁵

Following World War I many members of Congress apparently forgot the value of close coordination with the Army they had learned previously, and the Army, for its part, looked upon Congress as a "miserly Santa Claus."⁶ But some far-sighted, rational men from both groups recognized the need for close cooperation between the Army and Congress "to provide for the common defense." It was from men with foresight of military needs that a War Department agency, solely responsible for correlating the legislative needs of the Army, came into being. Through a spirit of willing helpfulness, a liaison between the Army and Congress slowly took shape to shepherd the needs of the Army through the complex Congressional process.⁷

Timid experimentation in legislative liaison developed after World War I. Army Chief of Staff Major General Leonard Wood assigned one officer in the Office of the Chief of Staff to monitor and coordinate Army legislation. On 1 September 1921, a Legislation Branch was

⁵Jackson, pp. 279 & 382.

⁶Jackson, p. ix.

⁷Jackson, p. ix.

created and placed under the Deputy Chief of Staff, Major General James G. Harbord. From that date, to a greater or lesser degree, some agency in the War Department had responsibility for coordinating legislative activities for the Army.⁸

On 9 March 1942 President Franklin D. Roosevelt signed Executive Order Number 9082 authorizing the War Department reorganization of 1942.⁹ Included in the reorganization was the provision for a new Legislative and Liaison Division. The Legislative and Liaison Division was established directly under the Deputy Chief of Staff as a special staff division. It was

. . . charged with supervising the preparation of legislation requested by the War Department, with preparing reports to Committees of Congress, and with the maintenance of Liaison necessary thereto.¹⁰

Colonel Wilton B. Persons, Chief of the Liaison Branch, Office of the Chief of Staff, at the time of the reorganization, became the first Chief of the Legislative and Liaison Division, War Department Special Staff. With the new position came the rank of Brigadier General for Persons.

General Persons stated the proposed concept of his operation to the Army Chief of Staff in a memorandum dated 2 June 1942. The Assistant Chief of Staff, G-1, in his concurrence with the concept, stated the following:

⁸Jackson, pp. 382-83.

⁹Jackson, p. 349.

¹⁰U.S., War Department, War Department Reorganization, Cir No. 59 (2 March 1942), p. 2.

2. The basic conception of the paper--to centralize the coordination of all congressional contacts in one office, is essential to a proper relationship with the Congress. In no other activity of the War Department is meticulous coordination so vital to the efficient conduct of the Army's business nor so important to the Army's reputation.¹¹

This was a viable alternative to the previous lack of teamwork between the Army and Congress.

At the time of its creation the legislative and Liaison Division had only three branches. The Legislative Branch was responsible for coordinating legislation and reports to Congress prepared by the War Department. The Congressional Liaison Branch was responsible for maintenance of liaison with Congress on matters of legislation and reports submitted to Congress by the Legislative Branch. The Federal Agencies Liaison Branch was responsible for liaison with other federal agencies cooperating with the War Department in the national defense effort.¹²

The reception of the Legislative and Liaison Division by Congress was favorable. A high degree of confidence was won among individual legislators and committees concerned with military affairs. Only highly capable officers were assigned to the sensitive positions in the Division. The absence of criticism was indicative of the high degree of efficiency attained by the Division. It became possible for members of Congress to obtain prompt answer to an inquiry concerning any Army

¹¹Jackson, p. 351, citing concurrence by General Hildring, Assistant Chief of Staff, G-1, with memorandum (2 June 1942) for the Chief of Staff by General Persons.

¹²Jackson, pp. 358-59.

operation or area of responsibility. Harried and hard-working legislators could receive professional advice as they carried out their legislative responsibilities. A long-standing civilian suspicion of the military was slowly being reversed. By closely studying the problems, subtleties, and procedures of Congress, the Legislative and Liaison Division had earned Congressional cordiality. By making themselves responsive to legislators, the officers of the Division gained the trust and approval so necessary to mutual understanding.¹³

Other branches were added as the responsibilities of the Division grew. On 18 September 1944 the Legislative and Liaison Division was authorized a Congressional Investigations Branch with the task of supervising all liaison between the War Department and Congress concerning Congressional investigations of War Department activities. In an effort to gear the Division for post-war planning, General Persons authorized the creation of a Plans and Policy Branch on 10 October 1946. This coincided with President Truman's proposals to Congress for universal military training and service unification. The Plans and Policy Branch was responsible for monitoring special Presidential proposals pertaining to national security matters. On 10 October 1946, the Military Justice Branch was created. This branch was responsible for assisting members of Congress with replies to constituents seeking a redress of grievances under the military justice system.¹⁴ By 1946,

¹³Jackson, p. 413.

¹⁴Jackson, p. 372.

therefore, the War Department, through the Legislative and Liaison Division, was better organized than ever before to be useful to both the President and Congress.

Another major reorganization involving the War Department's legislative liaison effort occurred with the enactment of the National Security Act of 1947. Sometimes referred to as the "Unification Act," the National Security Act united the Army, Navy, and newly created Air Force into one Executive Department of National Defense. On 17 October 1947, Secretary of Defense James Forrestal took the first step to coordinate the legislative liaison process of the three Services. He required all recommendations and reports concerning proposed or pending legislation to be coordinated by the initiating Service with the other Services before forwarding to Congress. Matters which could not be resolved by the Services would be forwarded to the Office of the Secretary of Defense for resolution. In 1948, Secretary Forrestal appointed the recently promoted Major General Persons to represent the national military establishment in all legislative matters. The Services were to continue their work in legislative matters while General Persons, working in the Office of the Secretary of Defense, Legislative Liaison Branch, coordinated the total defense liaison effort.¹⁵

The former Army Legislative and Liaison Division had been renamed Office of the Chief of Legislative Liaison by 1955. On

¹⁵Jackson, pp. 373-77.

17 February 1955, the Office of the Chief of Legislative Liaison was transferred from the Army Staff to the Office of the Secretary of the Army. Thus, the Office of the Chief of Legislative Liaison became responsible to the Secretary of the Army, but responsive to the Army Chief of Staff.¹⁶

Meanwhile, the Legislative Liaison Branch of the Office of the Secretary of Defense was experiencing difficulties in the relationship with its counterpart in the Department of the Army. The Office of the Secretary of Defense--Legislative Liaison had two prime functions: to coordinate the annual legislative functions of the Department of Defense with the Bureau of the Budget and to coordinate the legislative liaison functions of all Services. In reality the Office of the Secretary of Defense--Legislative Liaison influence had been very weak. The requirement that all legislative liaison efforts be channeled through the Office of the Secretary of Defense--Legislative Liaison was never fully implemented. One root cause had been the complex interservice rivalry over proportionate shares of the defense budget.¹⁷

In 1961 Secretary of Defense Robert S. McNamara took a major step to centralize the legislative liaison effort under the Secretary of Defense. The Office of the Secretary of Defense--Legislative Liaison

¹⁶"Organizational Changes--Office of the Chief of Legislative Liaison," Army Information Digest, May 1955, p. 23.

¹⁷"Legislative Affairs," Armed Forces Management, November 1959, p. 65.

was removed from the Office of the Secretary of Defense and reorganized under an Assistant Secretary of Defense for Legislative Affairs. At first it appeared that the Service legislative liaison efforts would be curtailed as Secretary McNamara had indicated that he would put an end to the Services' attempts to "end-run" the Secretary of Defense. However, the impact of Secretary McNamara's effort eventually resulted in a consolidation of the liaison effort within the Office of the Secretary of Defense rather than a subordination of the total Department of Defense legislative liaison effort under the Assistant Secretary of Defense for Legislative Affairs.¹⁸ Probably, the criticism from Senators and Representatives demanding assurances that they would not be thwarted in their attempts to communicate with the Services softened Secretary McNamara's blunt approach to the problem. At the time of this writing, the relationship between the Assistant Secretary of Defense for Legislative Affairs and the Office of the Chief of Legislative Liaison (hereinafter referred to simply as Legislative Liaison) is one of loose affiliation. The Assistant Secretary of Defense for Legislative Affairs exercises minimal control over the Services' legislative liaison efforts.

The Secretary of the Army was required to re-examine the role of Legislative Liaison following the passage of the Congressional Budget and Impoundment Act of 1974. With the establishment of the Legislative

¹⁸"New Policy for Capitol Liaison: Service 'End Runs' Hampered," Army, Navy, Air Force Journal, 18 November 1961, p. 1.

and Liaison Branch in 1942, other segments of the Army had been authorized limited contact with Congress because of specialized areas of interests. The Comptroller of the Army provided the interface between the Army and the House and Senate Appropriations Committees on finance and budget matters. The Chief of Engineers was authorized direct communication with Congress on appropriation matters concerning civil works projects. With the passage of the Budget and Impoundment Act of 1974, two new committees, controlled by a Congressional Budget Office, were created--the Senate and House Budget Committees. This complicated the Army's liaison effort with Congress. The Army had six major committees to deal with rather than four. The Secretary of the Army decided to centralize the procedure for the conduct of Congressional activities by designating Legislative Liaison as the single Army agency responsible for Congressional affairs policy, liaison strategy, and Army positions. Other Army agency contacts with Congress were retained, but in all cases coordination was required with Legislative Liaison. The effect was that as spokesman for the Army before Congress, the position of Legislative Liaison had been strengthened.¹⁹

Organization of Office of Chief of Legislative Liaison

Department of the Army policy today is that maximum cooperation be extended to members, committees, staffs of members and committees,

¹⁹Department of the Army, Office of the Chief of Staff, "Administration: Congressional Responsibilities," Memorandum (13 November 1975), pp. 1-2.

and staffs of Congress. To fulfill this policy, the Office of the Chief of Legislative Liaison is currently organized into seven offices headed by a Major General and staffed with 97 officers. Responsibilities of the offices are:

- The Office of the Chief "is directly responsible to the Secretary of the Army and is responsive to the Chief of Staff of the Army for the formulation, coordination and supervision of policies and programs concerning the Army's relations with Congress."²⁰

- The Executive Service Division is the administrative group that handles the clerical functions for Legislative Liaison. Additionally, correspondence of other than a routine nature is handled by this office. This is usually in the form of Congressional inquiries pertaining to the Army and addressed to the Secretary of Defense or the Secretary of the Army. Finally, the Legislative Liaison budget is prepared by this office.²¹

- Investigations and Legislation Division is the office with the responsibility for formulating, coordinating, and supervising the Army's portion of all legislation (except appropriations bills and civil works bills) and to monitor other legislation which might affect the Army. It also provides counsel to Department of the Army witnesses

²⁰Department of the Army, Legislative Liaison, AR 1-20 (6 July 1973), p. 2. (Italics mine.)

²¹MG Harrison A. Gerhardt, "The Congress Shall Have Power...", Army Information Digest, February 1962, p. 12.

going before Congressional committees. This assistance includes preparing material to be used in giving testimony. Finally, Judge Advocate General Corps officers provide full cooperation to Congressional committees investigating Army matters. Frequently, the assistance provided by these officers upon request is sufficient to resolve a problem without a formal investigation.²²

- The Congressional Inquiry Division is responsible for answering all routine Congressional inquiries. Inquiries into personal problems, questions of policy, and Department of the Army positions are normal subjects dealt with by this Division.

- The Plans and Operations Division handles all Army matters of Congressional interest in the following categories: construction, real estate, base closings, installations, manpower, research and development, procurement, and special activities.²³ When Congressional interest in one of these areas is discovered, the Plans and Operations Division seeks out the best qualified individuals in the field of interest to represent the Army before Congress.

- The last two offices are the House Liaison Division and the Senate Liaison Division. Representatives from these offices provide the immediate contact between Congress and the Army. Officers from these

²² Maj J. H. Michaelis, "Office, Chief of Legislative Liaison for Appropriate Action," Army Information Digest, April 1959, pp. 10-11.

²³ Raymond M. Jacobson, "The Problems and the Role of the Army's Office of Legislative Liaison", (Research Element paper, U.S. Army War College, 1974), p. 4.

offices contact members of Congress daily. In addition to rendering service to legislators and their staffs, they also pass pertinent information back to other offices of Legislative Liaison concerning Congressional needs and prevailing views.²⁴

Functions of Office of Chief of Legislative Liaison

From Department of the Army Regulation 1-20, Legislative Liaison, four major functions of Legislative Liaison can be identified. These functions, for the most part, are performed by more than one of the staff divisions in each case.

- The Chief of Legislative Liaison must insure formulation, coordination, and supervision of the Army's portion of the Department of Defense Legislative Program. As assigned by the Secretary of Defense, this function has three aspects. First, the Chief of Legislative Liaison must process and coordinate all legislative proposals requested by Army agencies and approved by the Chief of Staff. This includes coordinating with other military departments and the Secretary of Defense, transmitting proposals to Congress, and preparing for testimony to be given before Congressional committees. The Legislative Liaison follows proposed legislation through the Congressional process and reports the progress of legislation to the Secretary of the Army and concerned agencies. Second, the Chief of Legislative Liaison coordinates the Army's position on legislative proposals of other military departments

²⁴Michaelis, p. 8.

and individual members of Congress. Finally, the Chief of Legislative Liaison supervises the coordination of executive orders and proclamations.

An example of the route taken by Army legislative proposals, except appropriations, illustrates this function. Any Army agency may initiate a legislative proposal by submitting a summary sheet of the desired legislation to the Army Staff. If the Army Staff concurs, the proposal is sent to Legislative Liaison, which is responsible for insuring the proposal is put in proper legislative form by the Army Judge Advocate General. This draft is then sent to the Secretary of the Army and, if approved, is sent to the staffs of other Services and finally to the Department of Defense. If the Department of Defense approves the proposal it is forwarded to the Office of Management and Budget for review. Assuming the proposal is approved, the Army forwards it to the Speaker of the House and the President of the Senate who, in turn, refer it to their respective committees. In addition to guiding the preparation of legislation, Legislative Liaison follows a bill throughout the legislative process by preparing witnesses, answering questions, and coordinating closely with committee staffs.²⁵

• A second function of the Legislative Liaison involves the preclusion of formal Congressional investigations by providing, upon request, timely information to Congressional committees and their staffs

²⁵Jacobson, p. 7.

on Army programs and operations. By simply being aware of official interests of certain committees, representatives of Legislative Liaison can arrange for information before it is even requested. The activities associated with this function include notifying Army elements of pending investigations, furnishing information to both the Secretary of the Army and the Assistant Secretary of Defense--Legislative Affairs on the scope and schedule of hearings, coordinating the appearance of witnesses and preparing evidence for committees, providing counsel to witnesses, monitoring hearings, preparing summaries, and processing official transcripts.

- The effectiveness of Army witnesses appearing before committees of Congress determines, to a large degree, whether or not favorable legislation will be enacted. Appearances of witnesses before Congressional committees becomes the focal point of a vital Legislative Liaison function. A counsel is assigned by Legislative Liaison to each legislative proposal or committee hearing involving a subject of interest to the Army. The counsel assists witnesses in the preparation and presentation of testimony and accompanies witnesses to all hearings. Witnesses, unless specifically requested by name by a committee, are selected by the Army agency with action responsibility on the basis of grade, position, knowledge of subject matter, and ability to effectively represent the Army's position. All testimony before Congressional committees is in the form of prepared statements. Prepared statements are reviewed for consistency and continuity with established Department

of the Army policies. The Legislative Liaison coordinates the submission of additional information requested by a committee. Furthermore, Legislative Liaison coordinates with the Congressional committee concerned to correct errors in the testimony of witnesses.

• The broad area of coordinating communications with Congress is the fourth function of Legislative Liaison. As previously mentioned, the Department of the Army makes maximum information available to members of Congress, committees, and staffs consistent with regulations and directives governing the release of official information in the public interest. Routine inquiries are forwarded by Legislative Liaison to an appropriate Army agency for reply. Inquiries addressed specifically to Legislative Liaison or which require coordination above Army Staff level are answered by Legislative Liaison. Replies from Army field or staff agencies to inquiries from members of Congress are sent directly to the legislators seeking the information. Copies of replies to inquiries received directly from members of Congress are not provided to Legislative Liaison unless it is evident that further inquiries will be generated or the subject is of a particularly sensitive nature. Inquiries received by Army field or staff agencies directly from members of Congress which are beyond the capability of the addressee to answer or which pertain to pending legislation or a Congressional investigation must be forwarded to Legislative Liaison through command channels for reply. Inquiries from Congressional committees are handled in the same manner as inquiries from individual legislators.

The handling of Congressional inquiries generated by questions from constituents is an example of one of the Army's best public relations tools in its relations with Congress. The total number of inquiries received by legislators and passed on to Legislative Liaison for action varies from month to month. The current average is about 4,000 inquiries a month. Each inquiry must be answered in detail and returned to Congress within five working days. Despite this burden, Legislative Liaison has found this type of routine contact with legislators and their staffs to be beneficial in generating and maintaining cordial relations.²⁶

Other functions of Legislative Liaison include coordinating the submission of classified information and material to Congress. Also, the Army, through Legislative Liaison, gives prior notification to members of Congress and committees of Army programs and operations which may impact on a legislator's constituency.

Conclusion

Possibly the most succinct statement of a need for Army liaison with Congress was made by General Wilton B. Persons in a memorandum for the Army Chief of Staff dated 2 June 1942. In it he stated, "... the principal cause of conflict and lack of cooperation between Congress and the War Department arises because of a lack of understanding of the problems and limitations of each."²⁷ General George Washington saw a

²⁶Jacobson, p. 9.

²⁷Jackson, p. 391a, quoting the document.

need for Army liaison with Congress each time he had to leave the field and journey to Congress on behalf of the Army. Abraham Lincoln saw the need for liaison as the Civil War was probably unnecessarily protracted for lack of complete support by Congress. Elihu Root, Secretary of War under President William McKinley, recognized the need for liaison when he constituted himself a one-man liaison with Congress. The activities of the Legislative and Liaison Division, the forerunner of the Office of the Chief of Legislative Liaison, from its formation on 9 March 1942 through World War II, demonstrated that an essential need had been met through legislative liaison. This liaison had resulted in wise military legislation with reduced friction and criticism.²⁸

Unless Congress is properly advised in matters as technical and professional as national defense, there can be little hope for wise legislation. Since the power "to raise and support armies" rests with Congress, the very life and purpose of the Army depends upon wise legislation, especially in view of the desire of Congress to reassert its prerogatives. Therefore, a professional understanding between the Army and Congress seems vital if essentials are to be passed to Congress and translated into wise legislation for "the common defense."²⁹

The Legislative and Liaison Branch brought order out of confusion by promoting legislation important to military preparedness. The Legislative and Liaison Branch remained above intradepartmental

²⁸Jackson, p. x.

²⁹Jackson, p. 336.

differences and rivalries for Congressional favor as has the Office of the Chief of Legislative Liaison. Instead, they have supported legislative programs for the general good of the Army.

Can Legislative Liaison accommodate an assertive Congress? This question is not meant to imply that Legislative Liaison has not been accomplishing its assigned functions. Rather, the answer reflects a changing environment in which the Army and Congress may have to re-examine their relationship with one another.

CHAPTER V

CONGRESS CONSIDERS STRATEGY

Introduction

This chapter is concerned with Congressional involvement in strategic matters pertaining to the Army. The first section brings into focus the role Congress plays in strategy formulation and the impact on strategy decisions. The second section emphasizes the primary methods Congress uses to influence strategy. The third section examines legislative need for and access to information as the basis for making congressional decisions which in turn affect strategic decisions. In the fourth section, brief consideration is given to Congressional evaluation of military threat to United States national security. A review of the sufficiency of the Army legislative liaison effort in relation to strategic matters is given in the fifth section. A final section summarizes and concludes this chapter noting the significance of consensus between the Army and Congress on strategic matters.

Relation of Congress to Strategy Decisions

Congress plays a major role in deciding the priorities for the allocation of national resources. What should take precedence: the needs of the government or the desires of the people, national security

programs or domestic programs? How much of the nation's resources should be allocated for defense and non-defense use is a very complex question. The amount of resources Congress is willing to allocate for defense purposes will have a significant impact on the maintenance of the Army's strategic posture. How much is enough is, in part, a value judgment. The types of assumptions made about the nature of the threat to United States national security and the degree of certainty sought in any solution will vary the answers to the questions.¹

Inevitably, the apportionment of resources between national security and domestic needs is predominantly a political problem. Strategic programs must be balanced against differing interpretations of the existing threat and military requirements, against domestic social programs, and against fiscal policy.² Several scholars subscribe to one of two general schools of thought. These two schools of thought have evolved to explain the role of Congress in the strategy process. Of the two branches of government, the executive branch carries the main responsibility for strategy formulation. According to one school of thought, Congress seldom contributes directly to the strategy formulation process. This is based upon several factors.

Because of rapid developments in military technology and the

¹Warner R. Schilling, Paul Y. Hammond, and Glenn H. Snyder, Strategy, Politics, and Defense Budgets (New York: Columbia University Press, 1962), p. 262.

²Samuel P. Huntington, The Common Defense (New York: Columbia University Press, 1961), p. 131.

difficulty of force structure development to keep pace or because of delays in the release of information for security reasons, Congress may not receive important information to make critical defense oriented decisions until after new strategic elements have been initiated by the executive branch. Congress then usually makes only minor modifications to an adopted strategic course of action. By becoming involved prior to the formulation of a strategy, Congress could influence the strategy process more effectively. This school of thought has been challenged in recent years by events such as the struggle over the Safeguard and Sentinel antiballistic missile systems. In keeping with the spirit of reasserting Congressional prerogatives, Congress acted more aggressively in limiting appropriations than at any time since World War II. Nevertheless, since strategy formulation is conducted in a restricted environment, Congress can be and is essentially excluded.³

This same school of thought observes basic decisions on Army contributions to strategy being developed within the executive branch. Ideas are generated, proposals considered, debates waged, and elements of strategy are hammered out. The process is normally conducted quietly and out of the purview of Congress and the public. Only when the elements of strategy are fully formulated, or even implemented, are they brought before Congress and the public. The main point is this: It is

³David W. Tarr, "Military Technology and the Policy Process," in American Defense and Detente: Readings in National Security Policy, ed. Eugene J. Rosi (New York: Dodd, Mead, and Co., 1973), p. 329.

difficult for Congress to effectively provide guidance, control, and direction in the process of strategy formulation.⁴

According to the second school of thought, Congress does play a role in the strategy process, albeit not a major role. By exercising their Constitutional prerogatives, legislators are inevitably involved in shaping strategies adopted by the Army. They vote on the annual budget providing or denying resources to support or modify proposed strategies. Their choices and policies must impact positively or negatively on issues of strategy. Military and civilian strategists with the Department of Defense can develop strategies and propose alternatives and make the issues clearer, but the final determination will be a political one. Congress, in part, will influence the outcome.⁵ The important point is that budget arms ceilings established by Congress directly affect force levels and weapons systems, which in turn directly affect strategy. Former Secretary of Defense James R. Schlesinger characterized strategy as being like shifting sand in reference to the direct effect changes in budgets have on strategies.⁶

An alternative view to these schools of thought is offered by Samuel P. Huntington, Professor of Government at Harvard University. Military policy can be viewed as the product of conflicting interests

⁴Ibid., pp. 331-32.

⁵Schilling and others, pp. 265-66.

⁶James R. Schlesinger, "Uses and Abuses of Analysis," in American Defense and Detente: Readings in National Security Policy, ed. Eugene J. Rosi (New York: Dodd, Mead, and Co., 1973), p. 295.

among groups and individuals over international and domestic issues competing for priority. As in the case of the two views previously discussed, the source of conflict is the competition between international and domestic issues for financial resources.

Military policy is made up of strategic factors and structural factors. Strategic factors are those factors concerning the strength, composition, and readiness of military units and how they are deployed, committed, and employed. Strategy involves the development of units and the use of force. Structural factors, on the other hand, concern the procurement and distribution of men, money, and material. In a sense, this distinction is artificial but is used to facilitate discussion.⁷

The factors of strategy and structure are not isolated from the issues over which conflict takes place and from which decisions must be reached. If a military policy goal involves an international or external issue, strategic factors can be expected to dominate a decision. On the other hand, if a military policy goal is directed toward a domestic or internal issue, structural factors can be expected to dominate the decision. Strategy and structure may be complementary in some instances and contradictory in others. A major decision in the area of strategy will have consequences for structure and vice versa. Failure to adapt structural factors to strategic change will inherently bring on further contradictions.⁸

⁷Huntington, pp. 4-5.

⁸Huntington, pp. 4-5.

To illustrate, structural issues of military policy are usually developed through the same processes used to develop domestic legislation. The executive branch originates legislative proposals and recommends them to Congress. In turn, the proposals are referred to the appropriate committees. Decisions on the proposals are then made in Congressional committees and in the Congress assembled.

Strategic issues of military policy, on the other hand, are processed within the executive branch, specifically, but not exclusively, within the National Security Council, Joint Chiefs of Staff, and within the executive budget process. Opposition, debate, and compromise ensue between these agencies and their subordinate elements. Eventually, decisions are reached. The decisions are made public by announcement, implementation, or by other means of disclosure such as leaks, intentional or unintentional. The matter may then become an issue for discussion and debate by Congress and the press with the executive branch successfully maintaining its strategic policy or else being forced to make some modifications. Most often the executive branch dominates the situation and continues to carry out the strategic policy. In summary, then, decisions concerning structural issues rest essentially with Congress, while decisions concerning strategic matters rest essentially with the executive branch.⁹

Looking toward the future, estimates of military requirements are formulated in the Joint Strategic Objectives Plan and include

⁹Huntington, pp. 124-27.

determination of forces, weapons systems, and deployments. This document is the basic strategy document of the Joint Chiefs of Staff. For the Army, this is the first of a series of documents ultimately leading to appropriation and expenditure proposals submitted to Congress seeking men, money, and material to support strategy decisions.¹⁰

Until the late 1960s Congress had been reluctant to veto major strategic programs following World War II. This attitude, however, may well be changing, as was pointed out in Chapter III. Congress wants to be consulted before major strategic decisions are implemented. In the period from 1945 to 1961 Congress seldom addressed strategic issues and never vetoed strategic programs, force levels, or weapons systems by failing to appropriate funds. To be sure, structural issues were decided by Congress, but never in such a way as to seriously hamper a strategic program. However, since 1961 such major controversial issues as the Vietnam War and the antiballistic missile debate, for example, have all further underscored the assertion of Congressional prerogatives.¹¹

Congress does perform functions which, if vigorously exercised, could enhance Congressional influence of the formulation of strategy. If the pressure of these functions is brought to bear on the structural

¹⁰Huntington, p. 129; and see also: Department of the Army, U.S. Army War College, Defense Decisionmaking and Management (Carlisle Barracks, Pa., 21 August 1975), pp. 37-39.

¹¹Huntington, pp. 133-34.

issues of military policy, Congress could force a high price to be paid by an administration that contradicts the desires of Congress. These functions are considered in the next section.

Congressional Functions

One of the most important functions of Congress today is the legislative control and oversight of executive formulation and administration of policies, especially military policy. Congress has authority to become involved not only in what the executive branch does, but also how it does it. Not only does Congress have the power to enact laws, but it also has the power to determine if the laws are being properly executed.

To distinguish between legislative control and legislative oversight is to distinguish between the legislative action before and after the execution of executive activities. Legislative control entails the legislative review of executive policies and activities before they are implemented. Formal controls include the passing of statutes to create, regulate, limit, and restrict executive departments; passing statutes appropriating funds for executive departments to spend (this is probably the single most important control Congress exercises over the Army today and is a negative form of control); conducting hearings in pursuit of information; exercising the power of advise and consent, in the case of the Senate; and by using the legislative veto. Informal controls include a variety of personal contacts between legislators and executive branch officials, implications derived from the

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dialogue during legislative committee hearings, and statements of Congressional intent.¹²

The function of legislative control is not to direct, supervise, or dictate decisions for the executive. It is not the function of legislative control to share responsibility with the executive. This would tend to absolve either branch of responsibility. Legislative control does not constitute legislative participation in the executive decision-making process. The function of control by Congress should be to strengthen executive direction and should be exercised with wisdom and restraint.¹³

Legislative oversight, on the other hand, is the review by Congress and the individual committees of executive policies and actions after they have been implemented. This technique is designed to hold executive officials accountable for their decisions and actions. Inquiries and investigations held by Congressional committees are the primary means for conducting legislative oversight. Oversight must be applied with good judgment. The function of oversight is to hold executive officials accountable and to guard against inefficiency and mismanagement. Oversight must never become excessive to the point where it impinges upon the routine executive functions.¹⁴

As has been seen, Congress has shown a determination to reassert

¹² Joseph P. Harris, Congressional Control of Administration (Washington: Brookings Institution, 1964), pp. 8-9.

¹³ Ibid., p. 295.

¹⁴ Ibid., pp. 8 & 295.

prerogatives established by the Constitution. Several legislators have not been content to function within a narrow interpretation of legislative control and oversight, but in some areas, including the area of war powers, they have desired to play a more influential role in the strategy formulation process. The full extent to which Congress might move in exercising legislative control and oversight of Army strategic matters is a question with an elusive answer.

Information

Regardless of the form Congress might use to assert itself, whether by oversight, innovation, taking the initiative, or one of several other forms, Congress must have adequate information on which to base decisions. Influencing decisions without information is almost impossible. Little difficulty is experienced by Congress in gathering information about domestic issues. However, it is considerably more difficult for Congress to gather helpful information about strategic matters.

Congress is heavily dependent on the executive branch for information about strategic matters. The executive branch, through its agencies and the military Services, has a wide-ranging reporting system. It has steady access to information and highly qualified people to analyze the information.¹⁵ Since Congress does not have such a

¹⁵ Robert A. Dahl, Congress and Foreign Policy (New York: Harcourt, Brace, and Co., 1950), pp. 27 & 62.

collection means at its disposal, Congress has become dependent upon information the executive branch shares with it. From this arrangement there have arisen two major objections. First, the arrangement detracts from Congressional independence. Second, the executive branch, specifically the Army, withholds sensitive information from Congress at times.

The disparity between the independence of access to information by Congress compared to the President probably will never be fully reconciled. But progress has been made by Congress to acquire information independent of the executive branch. The establishment and expansion of professional staffs to service the Congressional committees have been helpful. But, of course, the staff becomes dependent, to a large degree, upon information from the executive branch.¹⁶ The staff has time, however, to cultivate other sources of information as well as to analyze the information.

Interest groups have been a source of information for Congress. Very often valuable data as well as expert opinions and viewpoints are gained from interest groups. Although information is sometimes sought by Congress from this source, more often the information is freely volunteered.¹⁷

Occasionally a Congressional committee will request a study from a private research organization such as the Brookings Institution or the

¹⁶Kenneth Kofmehl, Professional Staffs of Congress, Purdue University Studies, Humanities Series ([Purdue, Ind.: Purdue Research Foundation,] 1962), p. 155.

¹⁷*Ibid.*, p. 162.

Rand Corporation. This course of action provides an independent source of information but has not been used frequently because of high costs and excessive time for preparation.¹⁸

Witnesses from the business, academic, and scientific communities are called before Congressional committees in an attempt to gain independent information. Such witnesses have often been former Department of Defense officials or dissident officials still with the Department of Defense. Congress has been criticized for using such witnesses, not so much for their expertise as for the cover of respectability they provide to preclude the legislators from appearing as "know-nothings."¹⁹

Infrequently the Congressional Research Service of the Library of Congress has been tasked to provide studies. Congress has been criticized for not making better use of this service.²⁰

Other independent and less formal sources of information include the news media and personal contacts between legislators and their friends throughout the executive branch.

The second major objection to the dependence of Congress on the executive branch for information is that the executive agencies can provide only such information as would serve the interests of those

¹⁸Ibid., pp. 222-23.

¹⁹James Clotfelter, The Military in American Politics (New York: Harper and Row, 1973), p. 164.

²⁰Francis O. Wilcox, Congress, the Executive, and Foreign Policy (New York: Harper and Row, 1971), p. 75.

particular agencies. It is conceivable that Congress could be manipulated into appropriating funds in support of a given Army strategy simply because some information essential to decision-making by Congress is withheld. Whether or not such instances, in fact, occur becomes a moot point. If legislators perceive this as a danger, the assertive behavior of Congress, as portrayed earlier, comes as no surprise.

Despite these major objections to Congressional dependence upon the executive departments and agencies for information, the legislators recognize the Army as a source of expert military information. The legislators regard highly the advice of the Army on structural matters when it is clearly and candidly stated. Interestingly, legislators, in their quest for information, have not requested or shown concern for the nature of war plans.²¹

Controversy has centered around the denial of information to Congress on the basis of the sensitive classification of the material in question. Differing views of the value of the types of information exist at the root of the controversy. Generally, technical information is more often classified than is the overall nature of the subject matter. Some members of Congress contend that a legislator need not possess technical information concerning weapons systems intricacies in order to make decisions concerning the appropriation of funds for

²¹Lewis Anthony Dexter, "Congressmen and the Making of Military Policy," in New Perspectives on the House of Representatives, ed. Robert L. Peabody and Nelson W. Polsby (Chicago: Rand McNally and Co., 1963), pp. 313-14.

86

weapons development. They claim most major decisions could be made by Congress without access to classified information.²²

Many legislators contend that they simply do not feel fully competent to discuss defense problems unless they have full and authoritative information. Possession of full information removes the uncertainty in the mind of the legislator. These legislators have called for a greater declassification of information.²³ Presumably, this would include information to be considered by legislators when voting on issues supporting or nullifying elements of strategy.

A corollary to this contention maintains that the classification system prevents the release of timely information to Congressional committees when they need it. This is a source of frustration for the legislators who are expected to vote upon issues of which they are not fully aware. Declassifying more information quicker might end the practice of Congress voting for programs about which legislators know very little.²⁴

Beyond the major objections to executive dominance of information and Congressional reliance on the same information is the fact that Congress does have the legal authority to require the executive branch to provide information. Neither the executive branch nor any executive agency or department has the legal right to withhold information from

²²Erwin Knoll and Judith Nies McFadden, eds., American Militarism, 1970 (New York: Viking Press, 1969), p. 45.

²³Ibid., p. 107.

²⁴Ibid., p. 107.

Congress if not otherwise prohibited by statute. It is within the investigatory power of Congress that the authority to require information can be found. The investigatory power of Congress is as far-reaching as the legislative power. Since Congress has the authority to pass laws granting control over public records and documents, it ultimately follows that Congress can require the release of information by agencies of the federal government under conditions prescribed by Congress. Constitutional authority is cited as Article I, Section 8. Furthermore, Congress has the power to enforce requests for testimony and documents by the use of subpoenas and contempt citations. The President and his subordinates are not exempt.²⁵

Any refusal by the President or representatives of the executive agencies and departments can only be made on the basis of "privilege," but this claim is not supported by the Constitution. Also, the federal judiciary has never passed a ruling on the problem of federal agencies denying Congress access to information. Although executive agencies and departments have withheld information on occasion from Congress when deemed necessary in the public interest, they have done so at the risk of legal confrontation with Congress. It should be noted here that information denied to Congress under the executive privilege doctrine should not be confused with classified information significant to

²⁵ U.S., Congress, House, Committee on Government Operations, The Right of Congress To Obtain Information from the Executive and from Other Agencies of the Federal Government, Staff Study, 84th Cong., 2d sess., 3 May 1956, pp. 17 & 25.

national security. The latter type of information may, by statute, be denied to the public at large. However, it is highly unlikely that this information could ever be legally denied to a Congressional committee considering that most committee members carry a Top Secret security clearance.²⁶

It can be said, then, that Congress has a right to know, in maximum detail possible, the impact of strategic issues under consideration. Without this information the members of Congress cannot properly evaluate the adequacy of defense proposals of strategic significance. Authorization and appropriation of funds are contingent upon the information available to Congress. This was made clear in a report by the House Committee on Government Operations. In conclusion the report stated: ". . . [C]ontinued availability of appropriated funds is contingent upon the furnishing of complete and accurate information . . . to the appropriate committees of Congress at their request."²⁷ The design and implementation of any Army strategic plans or decisions in support of national security must be dependent upon the financial support provided by Congress. Therefore, the consent for implementation of Army strategic decisions is closely tied to the information made available to Congress.

²⁶ U.S., Congress, House, Committee on Government Operations, Executive Branch Practices in Withholding Information from Congressional Committees, H. Rept. 2207, 86th Cong., 2d sess., 30 August 1960, pp. 4 & 6.

²⁷ Ibid., p. 14.

Congressional Consideration of Military Threat

Considerable concern has existed in Congress that the military alone has been left to interpret the nature of an enemy threat. The same facts and circumstances may not be perceived in the same way by both the Army and Congress. What is perceived as a threat to one may not be a threat of the same magnitude to the other.²⁸ Judgment is used to determine a threat by interpreting the available facts. The prevailing judgment determines the priorities for allocation of funds by Congress. The attitude exists among many members of Congress that military interpretation of a threat does not take into account the need to provide for domestic priorities. Nor is it expected to do so. To a large extent it is a responsibility of Congress to share in balancing the priorities between the interpretation of the nature of the threat to national security and the requirement to satisfy domestic needs.²⁹

Successful articulation of the Army's needs must proceed from the basic understanding of the threat. It is from this basic understanding that the strategy and structure embodied in Army policy can be developed and specific requirements identified. At the beginning of each calendar year the Secretary and Chief of Staff of the Army, accompanied by several witnesses, present the Army's posture and programs for the next fiscal year to the Armed Services Committees. Similar presentations are given later to the House and the Senate Appropriations

²⁸ Wilcox, pp. 75-76.

²⁹ Knoll and McFadden, pp. 13-14.

Committee.³⁰ This is the primary opportunity for the committee members to become informed and ask questions about Army strategic matters. Only if the committees decide to launch investigations into strategic matters, which they have done occasionally, would they gain further information. Such investigations occurred in 1949 on service unification and strategy and in 1957-58 on Senator Lyndon B. Johnson's missile investigation.³¹ The posture statements provided by the Secretary and Chief of Staff of the Army have not satisfied all legislators. The posture statements have been described as being long on value philosophy and very short on facts. Representative Les Aspin acknowledged that a body of doctrine exists for strategic forces, for example, but the House Armed Services Committee, of which he is a member, has never been instructed in strategic force doctrine. This complicates the problem of determining how much defense force is enough.³²

Sufficiency of Army Liaison Effort

As mentioned in Chapter IV, the Office of the Chief of Legislative Liaison has performed its mission well. However, some criticism and recommendations from members of Congress, their personal staffs, and committee staffs seem to indicate that shortcomings in liaison with

³⁰ LTC Carl B. Lind, "Congress and the Army: The Role of Army Legislative Liaison," Army Digest, July 1969, p. 8.

³¹ Huntington, pp. 138-39.

³² Les Aspin, "Games the Pentagon Plays," Foreign Policy, Summer 1973, pp. 81-83.

Congress may stem from a deficiency in the liaison structure. The following inferences are derived from the data contained in two separate research efforts conducted by students at the Army War College in 1974 and 1975. In one study data consisted of verbatim statements acquired by interviewing Army officers involved with the liaison effort in some capacity, as well as members of Congress from both houses serving on the Armed Services or Appropriations Committees, their personal staff assistants, and committee staffers.

First, a more open policy on making information available to Congress should be established by the Army. The recurring use of security classifications to deny information to Congress continues to lead many members of Congress to believe the Army is not being completely candid. This may be particularly true involving matters of strategy. Not only was this point emphasized by legislators and staffers, but it was strongly emphasized by Army action officers involved with the legislative liaison effort.³³

Second, Army response to requests for information received varying comments from legislators and staffers. Requests requiring a formal written response were not as timely as were informal responses. This was apparently due to excessive coordination in preparing the response. Streamlining the coordination of responses to Congress was

³³ COL William H. Dillard, COL E. P. Geesey, LTC L. G. Hightower, LTC J. S. Maupin, and LTC J. W. Shannon, "The Role of the Army Manager in the Congressional Process" (Research Program paper, U.S. Army War College, 1975), pp. 90-91 & 107-108; and Jacobson, pp. 15-16.

recommended by some legislators as well as by Army action officers.³⁴

A recurring comment from legislators and their staffs, heads of Army agencies, and Army action officers involved with the liaison effort cited a need for the Army to provide a better understanding to Congress of what the Army is trying to do. Some legislators feel that Army representatives, appearing at committee hearings as well as at informal meetings, are technically competent in one area but do not understand the "big picture." Programs and procedures are sometimes observed to be poorly tied together. Some heads of Army agencies cited a need for a better way to insure continuity of information flowing to Congress. These heads of agencies saw the need for a small group of officers, other than the Office of the Chief of Legislative Liaison, to provide a clear overall picture of Army programs. Unfortunately, there was no further elaboration on this comment. Some Army action officers saw the need to defend budget requests by emphasizing more frequently the strategy, doctrine, and tactics of the Army. The Army position should be more firmly grounded, they believed, on a thorough evaluation of the threat, and that evaluation must be clearly presented to Congress.³⁵

Members of both the Senate and the House of Representatives, seeing a need for a mechanism to better assist Congress in controlling and overseeing military strategy, proposed such a mechanism on

³⁴Dillard and others, pp. 95-96, 101-102, & 107-108.

³⁵Dillard and others, pp. 90-91, 101, 103-105, 107, & 111.

13 October 1969. Representative Abner J. Mikva, on behalf and 27 colleagues, introduced a bill to create an Office of Defense Review. Senator Gaylord Nelson, on behalf of himself and three fellow Senators, introduced an identical bill in the Senate. As specified by the sponsors of the bill, a need for ". . . technically qualified evaluation of Defense Department programs, planning, and weapons systems . . ." could be satisfied through the Office of Defense Review. The Office of Defense Review would be a permanent agency of Congress reporting to a joint Congressional board, the Joint Board of Defense Review.³⁶

One of the most important functions of the Office of Defense Review would be to provide continuous national security information to interested legislators. The Office of Defense Review would be able to furnish enough information, especially to legislators who are not members of the Armed Forces Committees, to make an intelligent evaluation of defense proposals. The scope of concern for the Office of Defense Review would include inquiries into strategic planning, the assumptions which support the planning, the relation between strategic planning and foreign policy goals, and the impact of weapons systems on national defense.³⁷ The authors of the bill hoped to reach, through the Office

³⁶U.S., Congress, House, Representative Abner J. Mikva speaking for establishment of an Office of Defense Review, H.R. 14318, 91st Cong., 1st sess., 13 October 1969, Congressional Record 115:29747-49; and U.S., Congress, Senate, Senator Gaylord Nelson speaking on defense, national security, national priorities, and resource allocation review, S. 3023, S. 3024, and S.J.R. 160, 91st Cong., 1st sess., 13 October 1969, Congressional Record 115:29602-604.

³⁷U.S., Congress, House, Representative Abner J. Mikva . . . ,

of Defense Review, a new balance in national priorities between defense and domestic programs. However, the two bills never reached the floor of the respective houses for vote. Reintroduction of the bills is uncertain at this time.³⁸

One of the most striking examples in the history of relations between the Army and Congress provides some insight as to the results of direct Congressional involvement in Army plans and strategy. Congress gained a sour experience from the activities of the Joint Committee on the Conduct of the Civil War. This committee was authorized in December 1861, by concurrent resolution, to investigate ". . . past, present, and future--defeats, the orders of the executive departments, the actions of the generals in the field, and the question of war policies."³⁹ The intended purpose of the committee was to advance the war effort. However, it became a device in the hands of Congressional radicals for advancing their own aims. None of the four Representatives or three Senators comprising the committee had any military experience. Nevertheless, the committee proceeded to investigate military operations and evaluate military plans and strategy.⁴⁰ The committee demanded to see

ibid.; and U.S., Congress, Senate, Senator Gaylord Nelson . . . , ibid.

³⁸Based on personal correspondence from Senator Gaylord Nelson to this writer, 25 March 1976.

³⁹Harris, p. 253, quoting T. Harry Williams, Lincoln and the Radicals ([n.p.] 1941), p. 63.

⁴⁰Harris, p. 254.

war plans arguing that the Army had no right to deny Congress access to such information. Sensitive information was passed to committee members in closed sessions, but this information was released by the committee whenever it served a purpose. President Abraham Lincoln said of the committee: ". . . [T]his improvised vigilant committee . . . is a marplot, and its greatest purpose seems to be to hamper my action and obstruct military operations."⁴¹

The example of the Joint Committee on the Conduct of the Civil War is cited because it is one of the boldest attempts ever made by legislators to intervene in strategy and tactics. This experience of Congress was not quickly forgotten. Even through World War II, those legislators who would have established a similar committee to investigate the conduct of World War II were reminded of the disruption and confusion the Joint Committee caused during the Civil War. However, in 1941 Senator Harry S. Truman proposed that a Senate committee be formed to investigate wide-spread criticism of waste, extravagance, profiteering, and favoritism in defense programs. The proposal was adopted and the Truman Committee was given authority to investigate defense procurement and construction activities. The committee had no authority to supervise. The most important decision the Truman Committee made concerned an understanding of its duties. It was further agreed that the Truman Committee would not interfere with military strategy and tactics.

⁴¹Harris, p. 255.

The committee members were very much aware of the fiasco generated by the Committee on the Conduct of the Civil War and did not wish to encounter this experience again. With this matter settled, the Truman Committee limited its activities to logistics programs or, in Samuel P. Huntington's terms, structural matters.⁴²

It is questionable whether the Joint Committee on the Conduct of the Civil War or any similar Congressional committee could contribute constructively to the formulation of strategy. As long as the Joint Committee limited its recommendations and advice to the President to matters of supply and overall policy, there may have been some constructive contribution made. But to usurp the functions of command and become directly involved in the strategy process proved to be costly in both lives and material lost.⁴³ It would not be logical to conclude with scant evidence that an Office of Defense Review would be impractical. But it can be concluded that the very attempt to establish such an office underscores the fact that an element of Congressional dissatisfaction at being denied more active participation in the strategy process persists. This element has the potential of expanding and contracting with the flow of current events as pointed out in Chapter III.

⁴² Louis Smith, American Democracy and Military Power (Chicago: University of Chicago Press, 1951), pp. 213-16.

⁴³ *Ibid.*, p. 205.

Summary and Conclusion

Strategy is developed, decided upon, and implemented within the executive branch. However, Congress poses a continual challenge to strategy decisions by controlling the structural means for carrying strategy into effect. This check on the implementation of strategy could undermine a strategy decision, but it does not effectively shape it.⁴⁴ It could even be politically untenable for the Chief Executive to proceed with a strategy decision not popular with Congress.

It is important to bring the structural needs of the Army in line to support the adopted strategy. Strategy has evolved at a faster rate than structure. During the past two decades continuing threats have required new strategic decisions on force levels and weapons. But new strategies required the participation of Congress to authorize the manpower and organization.⁴⁵

The Office of the Chief of Legislative Liaison has dealt effectively with the structural factors required to carry out Army decisions on strategic matters. But apparently there needs to be increased emphasis placed on the effort to provide Congress with a sharp and consistent rationale for strategic programs as they pertain to the Army.

Part of the problem of Congressional consideration of strategic matters involves arriving at consensus both within Congress and between Congress and the Army. This specifically applies in the case of

⁴⁴Huntington, pp. 174-75.

⁴⁵Huntington, pp. 433 & 437.

legislative oversight and legislative control as exercised by Congress.

Strategy, as an element of military policy, requires consensus if all involved participants are to be satisfied. This is true within the Army, Department of Defense, and executive branch as strategies are developed and implemented. The same must hold true for any expanded Congressional involvement. Consensus will cost all participants something. But that cost is the price to be paid if any strategy is to be agreed upon.⁴⁶

Consensus building is a long, slow process. The greater the disagreements between participants, the longer it will take to reach consensus. It is difficult to generate consensus under a cloak of secrecy, which the Army often fosters. The method used for making decisions affecting military policy, including strategy, is political within both the Department of Defense and Congress. Ideas and interests are often in conflict, and this becomes the starting point for development of consensus.⁴⁷

Groups inside and outside government compete to influence the allocation of financial resources by Congress. Conflict cannot be avoided because of the differing beliefs and values held by the competing groups and individuals. Again, from the interaction of the competitors a source of consensus forms.⁴⁸ The Army, as a competitor for

⁴⁶Huntington, p. 167.

⁴⁷Tarr, pp. 331-32.

⁴⁸Eugene J. Rosi, ed., American Defense and Détente: Readings in National Security Policy (New York: Dodd, Mead, & Company, 1973), p. 232.

financial resources sufficient to implement its strategic decisions, must help Congress to understand the nature of the threat and the rationale behind the strategic decisions to counter the threat.

CHAPTER VI

SUMMARY, CONCLUSION, AND RECOMMENDATIONS

Summary

Chapter I introduced the problem by stating the thesis to be investigated. The thesis was to determine the need for an Army liaison staff to Congress for strategic matters. The problem was investigated, using historical and descriptive methods to examine pertinent literature concerning civil-military relations and legislative liaison. The intent of the investigation was to proceed from general to specific considerations.

In Chapter II, two models were presented to aid in viewing the complex Congressional process. The first model illustrated the opposing pressures placed upon legislators who attempt to behave both rationally and responsibly. The second model depicted the dynamic relationship between elements in Army-Congressional relations. Finally, three different views of the Congressional role in military policy-making were discussed, with the dominant view being that Congress is capable of playing only a somewhat limited role in the direct influence of military policy-making. To attempt to expand that role will inevitably lead to friction between the executive and legislative branches.

Chapter III examined executive-legislative relations with

respect to the war powers issue. Conflict between the President and Congress over the war powers authority has existed since the birth of the nation. The current Presidential dominance was seen to be a phase in a continuing cyclical process as power has shifted distinctly between the executive and legislative branches. Congressional reaction to the current dominance by the executive branch has been a thrust toward greater participation in national security matters. This was seen by the enactment of the War Powers Resolution, the challenge to executive agreements, and closer consideration when granting emergency powers to the President. By enacting the War Powers Resolution and by initiating legislative action now pending on other executive prerogatives, Congress has demonstrated a resolve to reassert Congressional prerogatives in national security matters. Any aspirations Congress might have to participate more fully in influencing national security must be accounted for in strategic planning. To avoid degrading the strategic effort, close cooperation and coordination between the military and Congress is necessary.

Chapter IV emphasized the fact that legislative liaison developed in response to a need for better communication between the Army and Congress. Early efforts at liaison with Congress were uncoordinated and on a person-to-person basis. After World War I the first steps were taken to formalize the legislative liaison effort, and this was well received by members of Congress. Following World War II the need for improved liaison with Congress increased and the legislative liaison

organization was modified accordingly.

A principal cause of conflict and a lack of cooperation between the Army and Congress has been a lack of understanding of one body for the other. The life of the Army depends upon wise legislation by Congress. Unless Congress receives competent advice there can be little hope for wise legislation.

Chapter V discussed Congressional involvement in strategic matters pertaining to the Army. Within military policy there is a distinction between strategic factors and structural factors. Congress is very much involved in determining structural factors such as allocating men, money, and material for national security. But Congress plays a negligible direct role in determining strategy. Indirectly, Congress can influence strategy by exercising functions of control and oversight in the process of allocating structural assets.

Any decisions by Congress which impact on strategy can only be as good as the information upon which they were based. Congress is heavily dependent upon the executive branch for military information and legally the executive branch cannot deny Congress the information it requests. Consent for implementation of strategic decisions by the Army is closely linked to the information provided to Congress.

Related to the information provided to Congress is the interpretation of a military threat to national security. Congress and the Army do not always share the same perception of a military threat. This fosters a differing sense of priorities.

Finally, data collected by students at the Army War College and Congressional legislative efforts in recent years to establish a Congressional organization to evaluate strategic planning and planning assumptions seem to indicate a deficiency in the legislative liaison effort. Liaison with Congress for the purpose of justifying requests for the structural means to carry out strategic plans has been more than sufficient. But some officers involved with the liaison effort and some legislators perceive a lack of adequate liaison designed to provide Congress an overview of Army strategic planning in terms of doctrine, rationale, and assumptions. An unbalanced liaison effort complicates arrival at consensus by participants. Strategy, as an element of military policy, requires consensus.

Conclusion

The intent of this paper was to determine the need for an Army Liaison staff to Congress for strategic matters. The conclusion can be simply stated: a need for such a staff does exist. The Army legislative liaison effort has developed in response to the needs of both the Army and Congress as the needs have been recognized. The legislative liaison effort has not been rigid and inflexible but, instead, has been capable of changing and adapting so as to best present the Army requirements before a changing Congress. A time for change has come again, this time to accommodate a Congress desiring to more fully assert its prerogatives in influencing national security through strategic matters.

An Army Liaison staff to Congress for strategic matters would

fulfill a need to balance the liaison effort. Much of the current liaison effort has been directed toward justifying Army requests for men, money, and material in terms of cost effectiveness using public relations and systems analysis techniques as tools. This is necessary. Providing a greater emphasis on an overview of doctrine, rationale, and assumptions would provide a sense of direction and would place Army requirements in fuller and more meaningful perspective.

An Army liaison staff to Congress for strategic matters would fulfill an increased need for improved cooperation between Congress and the executive branch at the military level. By opening up a specific line of communication for a two-way dialogue concerning strategic planning and planning assumptions, conflict and friction could be minimized and a sense of teamwork could be generated.

An Army liaison staff to Congress for strategic matters would more adequately fulfill the need for consensus so critical to the common acceptance of a strategy by all participants. By gaining a balance in the legislative liaison effort and by gaining increased cooperation and communication on the fundamentals of strategic assumptions and doctrine, the Army and Congress could enhance the building of consensus.

Recommendations

The purpose of this study was limited to determining the need for a specific staff element to appraise members of Congress on matters of strategic significance on a routine and continuing basis. The historical and descriptive methods were used to survey available

literature. Additional research in this subject area is recommended to expand upon details not addressed in this study.

First, since this study was limited to only determining a need for a staff element, further study should determine the feasibility for establishing such a staff. One consideration for study would be a small element of no more than three officers, initially, serving as the nucleus of a new division within the Office of the Chief of Legislative Liaison. The senior officer would serve as the Division Chief and each of the other two officers would orient their efforts toward the House and Senate, respectively. However, these officers would not supplant or duplicate the efforts of officers within the House or the Senate Liaison Division. The functions of the new division would include, but not be limited to:

- Providing Congress continuing information on the Army views concerning national security policy and security assistance policy.
- Providing changing views of Army responsibilities in national strategy.
- Coordinating information to interested members of Congress on a routine basis of alternative Army capabilities to execute its segment of national and military strategy.
- Coordinating updated information to Congress on the Army view of strategic threat alternatives.

Fulfillment of these functions would require close coordination of information and witnesses with the Director of Strategy and Security

Assistance located under the Deputy Chief of Staff for Operations and Plans. This new division of the Office of the Chief of Legislative Liaison would also have to keep abreast of developments and activities in other government agencies. Coordination could be made with the Department of Defense through the Office of the Assistant Secretary of Defense for International Security Affairs and with the Department of State through the Bureau of Politico-Military Affairs. Contact with appropriate agencies in the intelligence community might also be necessary.

The entire thrust of the liaison effort would be to reinforce, or even prepare the way for, the annual posture statement provided by the Secretary and Chief of Staff of the Army. As a subordinate element of the Chief of Legislative Liaison, there is as little chance of this division making an "end run" on the Secretaries of Defense or Army as exists under the current system. This liaison staff would not be directly involved in strategic policy formulation because it would have neither the legal authority nor the political acumen needed.

Alternative considerations generated during the investigation of the first recommendation should not be overlooked. They should also be explored for feasible application.

The second recommendation is that a broader, more comprehensive study should be made to examine the need for a liaison staff to Congress for strategic matters at the Department of Defense level.

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